

# Exhibit 2

Marcellus Ball Deposition

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Deposition of Marcellus Ball

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In the Matter of:

MARCELLUS BALL,

Plaintiff,

vs.

Case No. 21-11653

Hon. David M. Lawson

Magistrate Judge: Kimberly G. Altman

CITY OF DETROIT, a municipal  
corporation, IAN SEVERY, an individual,  
DONNA McCORD, an individual, and  
JASON ADAMS, an individual,

Defendants.

\_\_\_\_\_/

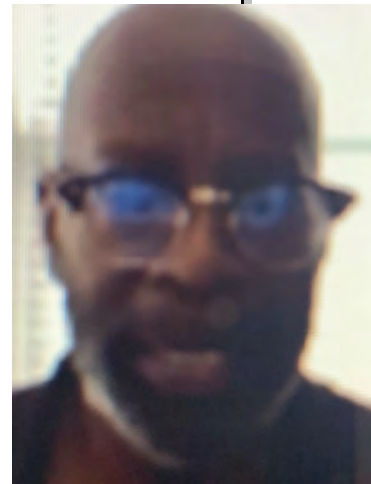
ZOOM VIDEO CONFERENCE DEPOSITION OF MARCELLUS BALL

Transcript of the deposition taken in the  
above-entitled matter by Zoom video conferencing, on  
Wednesday, February 23, 2022 commencing at or about 10:00 a.m.

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1 Wednesday, February 23, 2022 - 10:01 a.m.  
2 (Deposition taken by Zoom video  
3 conferencing. The term "inaudible" is  
4 used where audio fades out or audio  
5 interference causes testimony to be  
6 unintelligible.)

7 REPORTER: Please raise your right hand.  
8 Do you solemnly swear to tell the truth, the whole truth  
9 and nothing but the truth?

10 MR. BALL: I do.

11 MARCELLUS BALL  
12 having been called as a witness, was sworn to testify to  
13 the truth, the whole truth and nothing but the truth, was  
14 examined and testified as follows:

15 EXAMINATION

16 BY MR. SMITH:

17 Q Thank you and good morning, Mr. Ball. Mr. Ball, please  
18 state your full name for the record.

19 A My name is Marcellus Anthony Ball.

20 Q And Mr. Ball, I'm just going to go over some preliminary  
21 ground rules for this deposition so I can make sure that  
22 we're on the same page. I'm going to ask you some  
23 questions and I ask that you answer those questions based  
24 on your personal knowledge and that you not guess or  
25 speculate. Do you understand?

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1 A Yes, sir.

2 Q Okay. And we have Madame Court Reporter here who's going  
3 to be making a transcript of everything we say, so to  
4 keep that record clean and clear, I'm going to ask that  
5 you give verbal responses using yes or no or whatever the  
6 situation may call for, you answer verbally as opposed to  
7 with gestures or sounds like ut-huh, ah-huh.

8 That way, we can make sure we have a good  
9 record made. You understand?

10 A Yes, I do.

11 Q Okay. Now, I'm going to make a deal with Mr. Ball. I  
12 want to let me finish my question before you answer and  
13 once I complete my question, I will let you finish your  
14 answer before I move on to the next question or follow up  
15 with anything else. Can we agree on that?

16 A That sounds good to me.

17 Q Okay. Now, if you don't understand a question or you  
18 don't hear a question, I want you to let me know so I can  
19 either repeat the question you didn't hear or rephrase  
20 the question you didn't understand. Does that seem fair  
21 to you?

22 A Very.

23 Q Okay. Now, also, if you answer a question, I'm going to  
24 assume that you understood the question. Do you  
25 understand?

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1 A Yes, sir

2 Q Okay. And if you need a bathroom break, just let me  
3 know. The only issue I have is, we won't - I'll put an  
4 objection on the record if there's any bathroom breaks  
5 after I've asked a question, but before you answer. Is  
6 that fair?

7 A Yes.

8 Q Okay. Now, are you taking any medication or do you have  
9 any kind of medical condition that would interfere with  
10 your ability to understand, hear, or answer my questions  
11 completely?

12 A No.

13 Q Okay.

14 MR. SMITH: And let the record reflect that  
15 this is the deposition of Marcellus Ball taken pursuant  
16 to Notice and may be used for all purposes allowable  
17 under the Federal Court Rules.

18 Q (By Mr. Smith) Now Mr. Ball, in that Notice that was  
19 forwarded to your Counsel, you were requested to bring  
20 any documents, text messages, things of that sort, that  
21 you will be relying on in your deposition today.

22 MR. SMITH: Brother Counsel, Mr. Ball, did you  
23 bring any documents subject to that Notice?

24 MR. SKLAR: Those were produced, so it was  
25 already produced for you.



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1 MR. SMITH: Okay. Just so we're clear Brother  
2 Counsel, we're referencing the text message and the  
3 attached letter?

4 MR. SKLAR: You're asking me?

5 MR. SMITH: Yes.

6 MR. SKLAR: Yes. Whatever the Response to  
7 Request for the Production of Documents is what he has.

8 MR. SMITH: Gotcha. Okay.

9 Q (By Mr. Smith) Then Mr. Ball, what is your date of  
10 birth?

11 A 4-1-60.

12 Q I'm sorry. I didn't hear you, sir?

13 A April 1st, 1960.

14 Q And what's your current age?

15 A Sixty-one.

16 Q And what is your educational background beyond high  
17 school?

18 A I have a Bachelor's Degree from Eastern Michigan  
19 University and a business certificate from Wayne State  
20 University.

21 Q When did you earn the Bachelor's?

22 A 1986.

23 Q And do you have any type of military background?

24 A No, sir.

25 Q And what's your current address? You don't have to give

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1 me the address. Street name and city and zip code will  
2 be fine.

3 A Street name?

4 Q Yes. Street name, city and zip code and state will be  
5 fine.

6 A Huntcliff Village Court, Sandy Springs, Georgia.

7 Q Mr. Ball, what's your home phone number?

8 A 248.508.2754.

9 Q And given that you're in Georgia, I take it that's a cell  
10 phone number?

11 A Yes, sir.

12 Q Okay. So you have no land line?

13 A No, sir.

14 Q And Mr. Ball are you currently married?

15 A No, sir.

16 Q Ever been married?

17 A Yes, sir.

18 Q When were you married?

19 A I was married from 1996 to 2010.

20 Q And how did that marriage end?

21 A In divorce.

22 Q And how many children do you have Mr. Ball if you have  
23 children at all?

24 A One.

25 Q Okay. And where are you currently employed?

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1 A The City of Atlanta, Office of Investigator General.

2 Q I'm having a little trouble hearing you. Did you say  
3 City of Atlanta, Office of Investigator General?

4 A Yes, sir.

5 Q And what do you do at the City of Atlanta OIG?

6 A I'm Senior Investigator.

7 Q And when did you begin your employment with Atlanta's  
8 OIG?

9 A About in November the 19th or 20th, somewhere around that  
10 time.

11 Q And I want to make sure I heard that right. Did you say  
12 November 19th of 2020?

13 A Nineteenth or 20th of 2021.

14 Q 2021. Now, in this job with the Atlanta OIG, are you on  
15 a salary or are you paid hourly?

16 A I'm salary.

17 Q And what is the salary you earn in that particular  
18 position?

19 A Fifty-two thousand dollars a year. (\$52,000).

20 Q And does that particular job that you're in now offer you  
21 health care benefits?

22 A Yes, it does.

23 Q And is that who you receive health care benefits through?

24 A Yes, sir.

25 Q And what type of working hours do you keep in that

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1 position? Is that like a 9:00 to 5:00 or what does your  
2 schedule look like?

3 A They fluctuate, but mainly 9:00 to 5:00.

4 Q And about how many hours a week do you work?

5 A Forty.

6 Q And do you have the opportunity for overtime in that  
7 position?

8 A Being on salary, we don't get overtime. It just, you  
9 know.

10 Q Okay. Now Mr. Ball, do you have any prior experience  
11 with depositions? Have you ever been deposed before?

12 A Yes, sir.

13 Q About how many times have you been deposed?

14 A At least five that I can recall.

15 Q Let's talk about those depositions. On the first  
16 instance, why were you being deposed?

17 A On the first incident?

18 Q The first time you were deposed. You said you can recall  
19 about five incidents. On the first one you can  
20 recall --

21 A On my - oh, I'm sorry.

22 Q Yeah, just let me finish the question. You said you can  
23 recall five times that you were deposed. Tell me about  
24 the first time you were deposed. Why were you deposed in  
25 that matter?

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1 A We were being sued. My crew was being sued by a  
2 Defendant.

3 Q Who is "we?"

4 A That was like 25 years ago.

5 Q Okay.

6 A I can't give you the instance. All these times were very  
7 long times ago. I was working the streets.

8 Q Were those depositions related to litigation involving  
9 the City of Detroit?

10 A Well, the City of Detroit. I was being sued and being  
11 represented by the City of Detroit if that's what you  
12 want to call it.

13 MR. SKLAR: Yeah. Let me object just to lack  
14 of foundation.

15 MR. SMITH: Understood.

16 Q (By Mr. Smith) The other incidents that you were  
17 deposed, so let me rephrase it this way. All the  
18 incidents that you can recall being deposed in involved  
19 your employment with the City of Detroit?

20 A Correct.

21 Q And I want to make sure I heard you right. You said  
22 those depositions occurred some time ago?

23 A Yes, sir. I just recently had one with one of the City  
24 attorneys. He just retired I think last summer. That's  
25 the last one I had.

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1 Q And were you deposed as a witness or as a named Defendant  
2 in that matter?

3 A I think I was a named Defendant. It was a gentleman who  
4 said he was falsely arrested as a result of a bad  
5 identification by a victim.

6 Q Now, outside of being a named Defendant in that  
7 particular city matter, have you been involved as a party  
8 in any other litigation?

9 A As far as I'm trying to follow you on that.

10 Q Sure. Whether in your work capacity or in your personal  
11 life, have you ever been involved as a named party  
12 whether Plaintiff or Defendant in any other litigation?

13 A My divorce.

14 Q Now Mr. Ball, did you meet with your attorney to prepare  
15 for this deposition today?

16 A Yes.

17 MR. SKLAR: By phone, not personally but,  
18 Marcellus, you are not to talk about the contents of that  
19 conversation. Okay?

20 THE WITNESS: Yes.

21 MR. SKLAR: You are not to talk about the  
22 contents of any communications between you and I.

23 THE WITNESS: Yes, sir.

24 MR. SKLAR: It's attorney-client privilege.

25 Q (By Mr. Smith) Mr. Ball, was there anyone else on the

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1 phone during this meeting with you and your attorney?

2 A No.

3 Q And I want to be very careful on this question. Outside  
4 of the documents which your Counsel has said were  
5 produced in discovery to us, have you reviewed any  
6 documents or writings of any kind in preparation for this  
7 deposition?

8 A No.

9 Q Are you working off any notes presently?

10 A No.

11 Q And since filing your lawsuit have you had any  
12 conversations with any DPD employees?

13 A That's a broad question. I have friends who are DPD  
14 employees.

15 Q Is that a yes or a no, Mr. Ball?

16 MR. SKLAR: objection. Let me just make my  
17 foundation. Form and foundation. Present, past,  
18 currently, exactly what are you asking for? Anybody in  
19 the world who may work for the City?

20 MR. SMITH: No. My question I think is pretty  
21 direct.

22 Q (By Mr. Smith) Since he has filed his lawsuit and if you  
23 need me to put it on the record when that lawsuit was  
24 filed, have you had any conversations, well, let me  
25 rephrase it this way. Since filing your lawsuit, have

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1           you had any conversations with any DPD employees about  
2           your lawsuit?

3    A    No. I've had well-wishers, but no direct conversations  
4           with anybody.

5    Q    And Mr. Ball since filing your lawsuit, have you spoken  
6           to anyone in the media regarding your lawsuit?

7    A    Yes.

8    Q    Okay. Who have you spoken to and what day did you speak  
9           with them on if you can recall?

10   A    I don't recall the date. One was around the date that I  
11          reported the incident and that was with a gentleman, I  
12          think his name was Colquitt from WDIV and there was  
13          Carolyn Clifford from WXYZ and there was some journalist  
14          from Ohio who was doing a podcast. I don't recall her  
15          name.

16   Q    Let me ask you about the WDIV interview. What date do  
17          you recall that interview occurring on if at all, if you  
18          recall?

19   A    It was the date that I had the meeting with Donna McCord  
20          and Ian Severy whatever date that was.

21   Q    Did you call WDIV?

22   A    No, sir.

23   Q    Do you know who called WDIV on your behalf, if anyone?

24   A    No. I don't know who called. I don't know who called on  
25          my behalf.



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1 Q So how did you end up on the news?

2 A When I went to meet with my attorney.

3 Q When did you find out that you would be going to the news  
4 to speak with them about your accusations?

5 A When I got to his office he told me.

6 Q Do you recall what time that was?

7 A It was in the late afternoon.

8 Q And so I understand the timeline and we'll get more into  
9 this, your incident with Lieutenant McCord and Captain  
10 Severy, what part of the day did that occur in?

11 A Mid-afternoon.

12 Q Mid-afternoon. Now, your interview with Carolyn  
13 Clifford, WXYZ, did you call them? How was that  
14 interview set up to your knowledge?

15 A That was set up with my attorney. You'll have to ask  
16 him.

17 Q Okay. Now Mr. Ball, when were you hired by DPD? When  
18 did you join the force?

19 A July 28, 1986.

20 Q And so it's fair to say you successfully progressed  
21 through the Police Academy and you became a sworn  
22 officer?

23 A Yes.

24 Q And in carrying out your duties as a sworn officer, you  
25 understand that you have to comply with the US and

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1 Michigan Constitution. Correct?

2 A Yes.

3 Q And as a sworn member of the Department, you understood  
4 that you were required to follow Detroit Police  
5 Department's Manual of regulations?

6 A Yes, sir.

7 Q As well as other policies and procedures of the  
8 Department?

9 A Yes.

10 Q I want to backtrack one second Mr. Ball. So as far as  
11 the interviews, so I want to be clear. You didn't set  
12 the interviews up?

13 A No. You would have to talk to my attorney Mr. Perkins.

14 Q And so now I want to talk about your career with DPD.  
15 I'm going to pull up what is labeled as Defendants'  
16 Exhibit 3, with Exhibit 1 being the Notice of Dep and  
17 Exhibit 2 being the Summons and Complaint.

18 A Yes, sir.

19 (At 10:21 a.m., Defendants'

20 Exhibits 1, 2, and 3 marked)

21 MR. SMITH: And Brother Counsel, I'm going to  
22 share my screen to give you a chance to look at the  
23 document here. Can you see that document Brother Counsel?

24 MR. SKLAR: I can.

25 MR. SMITH: And for the record Brother Counsel,

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1           this document is Bates stamped 000335.

2     Q     (By Mr. Smith) Mr. Ball, are you familiar with DPD's  
3           Management Awareness System commonly known as MAS?

4     A     Yes, sir.

5     Q     Okay. And here I have what I'm purporting to be your MAS  
6           Sheet and I'm going to give you a chance to look at it  
7           here. Let me know when I can scroll down.

8     A     You can scroll down.

9     Q     Can you see this pretty good?

10    A     Yes.

11    Q     Okay. I am going to take this document back to the top  
12           because I want to focus in just on the part where it  
13           talks about Assignment History.

14    A     Yes.

15    Q     Okay. So according to this, out of the Academy you were  
16           assigned to a mini station section?

17    A     Yes.

18    Q     Okay. And then you were assigned to the 12th Precinct?

19    A     Correct.

20    Q     And isn't that as a patrol officer. Correct?

21    A     Yes.

22    Q     And then as a patrol officer you were assigned to  
23           Narcotics Enforcement?

24    A     Yes.

25    Q     Okay. And then you went back to the 12th Precinct?

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1 A Yes. I got promoted.

2 Q And you were promoted to what?

3 A Sergeant.

4 Q Okay. And that's at the 12th Precinct?

5 A Yes.

6 Q And what year were you promoted to sergeant in?

7 A 1996.

8 Q And so as a sergeant you went back to the Narcotics  
9 Division?

10 A Yes.

11 Q Okay. And who did you report to while at the Narcotics  
12 Division?

13 A Rudy Thomas. Commander Rudy Thomas.

14 Q Okay. So who was your lieutenant that you reported to?

15 A James Lasbro. (phonetic). I had several lieutenants.

16 Q Was Jacqueline Pritchard one of them?

17 MR. SKLAR: Hold on for a second. Wait a sec.  
18 I was knocked off for a while.

19 MR. SMITH: Oh, wow.

20 MR. SKLAR: So I missed probably the last  
21 minute.

22 MR. SMITH: Okay. I didn't realize that.

23 MR. SKLAR: Yeah, it froze up. I'm getting  
24 reconnected.

25 MR. SMITH: Okay. When you get your issue

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1           worked out, I'll have Madame Reporter readback the  
2           record.

3                       MR. SKLAR: Yeah. Can you do that for me,  
4           please?

5                       MR. SMITH: Madame Reporter, would you readback  
6           I guess the last minute of the record?

7                       MR. SKLAR: Just what the question was. I  
8           don't care about the answer.

9                       MR. SMITH: I think the question was regarding  
10          his supervisors while at the Narcotics Division when he  
11          became sergeant.

12                      MR. SKLAR: Okay. All right. Keep going.

13                      MR. SMITH: Okay.

14    Q        (By Mr. Smith) Mr. Ball, the question I asked you was  
15              Jacqueline Pritchard one of those lieutenants while you  
16              were at Narcotics Enforcement?

17    A        I'm not sure if she was or not. I was assigned out to  
18              the feds. I had several lieutenants. She could have  
19              been. I don't really recall. I was there for quite some  
20              time, but I was assigned out even longer, so I couldn't  
21              tell you for sure if she was or not.

22    Q        Okay. So you go to the 6th Precinct and you spent some  
23              time there as sergeant. Correct?

24    A        Yes.

25    Q        Now, were you patrol sergeant or were you in a

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1 specialized unit?

2 A I was patrol at first and I later went to the Detective  
3 Unit. I transferred to the 8th Precinct Detective Unit  
4 which was in the same building.

5 Q Okay. And so from there you went over, is that when you  
6 went over to the Criminal Investigation Unit as well?

7 A Yes. Criminal Investigation and the IOU were like hand-  
8 in-hand.

9 Q I'm sorry. You said a designation I've never heard. Was  
10 it IOU?

11 A Yes. It says 8th Precinct IOU on the sheet. That's  
12 Investigative Operations Unit.

13 Q Now, during your stint in the Narcotics Division, on your  
14 MAS Sheet it says from April 13, 1998 to December 18,  
15 2009. Why did you leave that particular command?

16 A It was on a new command and going in a different  
17 direction and it was time to go.

18 Q Were you asked to put in your transfer?

19 A No. I was told that I was transferred. That's an at-  
20 will unit.

21 Q At-will. Okay. At what point did you meet Jacqueline  
22 Pritchard, well, now I believe she's either a captain or  
23 commander, but at what point did you meet Jacqueline  
24 Pritchard in your DPD career?

25 A I met her early on in my career. I've been knowing her

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1 for a while.

2 Q At what duty location did you meet her?

3 A At what duty location? Probably if I can recall  
4 correctly the 8th Precinct Detective Unit.

5 Q And so according to your - well, first, how many years  
6 have you known her?

7 A Several. I mean, I've known her throughout my career.

8 Q Well, let me help you narrow this down. Have you known  
9 her more than ten years?

10 A Yes.

11 Q Have you known her more than 20 years?

12 A Probably.

13 Q And so to pick up, in July of 2017 to June of 2018 this  
14 says General Assignment. I don't understand what that  
15 means. What assignment was that? Where did the  
16 Department send you?

17 A That was the Illegal Dumping Unit.

18 Q Okay. And who did you report to in that unit? Who was  
19 your direct report?

20 A Lieutenant Rebecca McKay.

21 COURT REPORTER: Excuse me, Mr. Smith. It  
22 looks like we lost Mr. Sklar again, so maybe we should  
23 hold up for a minute.

24 MR. SMITH: We will.

25 THE WITNESS: Can I step away for one second?

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1 MR. SMITH: Mr. Ball, Mr. Ball, I am going to  
2 object to you stepping away --

3 THE WITNESS: I'm just going right here. The  
4 plug is coming out of the wall. I'm just going to put  
5 the plug in right here.

6 MR. SMITH: Okay. Because I prefer to have  
7 your Counsel back on.

8 MR. SKLAR: You guys got me?

9 MR. SMITH: Yes.

10 MR. SKLAR: Okay. I don't know what's  
11 happening, but okay. I apologize.

12 MR. SMITH: Brother Counsel, it might help if  
13 you get closer to your signal based on whatever location  
14 you're at.

15 MR. SKLAR: I'm as close as I can get.

16 MR. SMITH: Okay.

17 MR. SKLAR: I can't get any closer than this.

18 MR. SMITH: All right. Did you miss any part  
19 of the record that I need to go back and repeat, any  
20 questions?

21 MR. SKLAR: I know you were talking about  
22 Jacqueline Pritchard, I believe.

23 COURT REPORTER: We stopped immediately. I get  
24 a signal when he goes out, I get a tone, and that's when  
25 I indicated to you Mr. Smith that we lost him and to



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1 wait.

2 MR. SKLAR: Okay, cool, so pick up. I

3 apologize. Let's hope this doesn't --

4 Q (By Mr. Smith) Okay. And I think Mr. Ball we left off

5 with we were talking about your time in the Illegal

6 Dumping Unit. I think the last thing you indicated was

7 that you reported directly to Rebecca McKay?

8 A That's correct. Yes, sir.

9 Q And now did you transfer out of that dumping unit as well

10 or did you initiate the transfer out of that unit or did

11 the Department say, hey, were transferring you?

12 A Well, it depends on how you look at it. I made a

13 complaint against Lieutenant McKay and during the course

14 of that investigation, they sent me to another unit which

15 was Domestic Violence.

16 Q When did you make that complaint against at the time of

17 Lieutenant McKay? What year was that?

18 A Let me see when I was there. Probably around 2018.

19 Q So while we're on the subject, let's just talk about the

20 process of what happens when you make a complaint. So

21 when you made that complaint, who did you make the

22 complaint to?

23 A I made it to her at first.

24 Q Okay. Then who did you make it to next?

25 A I think I went to Commander - I don't know if he was a

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1 commander or a deputy chief, but it was Marlon Evans. I  
2 couldn't tell you how the chain goes.

3 COURT REPORTER: Marlon Evans?

4 THE WITNESS: Yes. Marlon Wilson. I'm sorry.  
5 Marlon Evans is another lawyer. I'm sorry. Excuse me.

6 COURT REPORTER: Thank you.

7 Q (By Mr. Smith) And let me ask, was your union involved  
8 in that complaint?

9 A If you want to call it that. When I went to the union, I  
10 talked with Mark Young and I told him my concerns and he  
11 told me some battles weren't worth fighting and he could  
12 send me wherever I wanted to go.

13 Q I'm sorry. I don't mean to interrupt you, Mr. Ball.  
14 Finish your statement, sir.

15 A And I told him I was (inaudible).

16 Q And for the record, who is Mark Young?

17 A The Union President.

18 Q And just for the record, the union is the Detroit Police  
19 Lieutenants' and Sergeants' Association. Is that  
20 correct?

21 A That's correct.

22 Q Commonly known as DPLSA or just LSA. Is that correct?

23 A LSA.

24 Q Now, was there an investigation conducted in regards to  
25 your complaint?

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1 MR. SKLAR: I'll object to form and foundation.

2 You can answer.

3 THE WITNESS: I believe so.

4 Q (By Mr. Smith) And were you permitted to stay in the  
5 Dumping Unit while the investigation was conducted or  
6 were you assigned out pending the findings of that  
7 investigation?

8 A I was assigned out. I don't know if it was pending the  
9 outcome of the investigation, but I was assigned out.

10 Q Now, is that typically how the Department handles  
11 complaints between let's say a sergeant and their  
12 lieutenant or an officer and the sergeant? I'll just let  
13 you answer. Is that typically how they handle that  
14 matter?

15 MR. SKLAR: I'll object to form and foundation  
16 again. You can answer if you have one.

17 THE WITNESS: I can't tell you how all  
18 complaints are handled, but I can only speak under how  
19 mine was handled.

20 Q (By Mr. Smith) Okay. And how many years have you known  
21 Rebecca McKay?

22 A Maybe 15 years. We worked together when we were at  
23 Narcotics as well.

24 Q And what was the subject of the investigation that you  
25 were assigned out for?

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1     A     As the OIC of a unit, you have the autonomy to run the  
2           unit the way you see fit as long as you're - even though  
3           you're following the rules and regulations, and my  
4           concern was that people who weren't the focus of the  
5           investigations were being questioned without giving them  
6           their Miranda rights and you knew that they were  
7           eventually going to be arrested and I know in some cases  
8           you don't have to give the person their Miranda rights,  
9           but I wanted people under my supervision span of control  
10          to advise a known subject who we knew we were going to  
11          arrest, I wanted them to advise him of his Constitutional  
12          rights, especially if an arrest was imminent and she did  
13          not like that.

14     Q     I understand that, but I guess my question again is, what  
15           was the outcome of the investigation? You said the  
16           Department conducted an investigation and I'm just  
17           curious what the results were. What did the Department  
18           say?

19                     MR. SKLAR: I'll object to form and foundation  
20                     again. If you know, go ahead and give a response.

21                     THE WITNESS: I don't know what the Department  
22                     said, but I know that I was called into - she was a  
23                     commander at the time, Elaine Bryant's office, and I was  
24                     taken down there by Captain Joseph Tucker and when I got  
25                     to her office, she told me that I was not a good fit here

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1 and I would be sent to the 12th Precinct and that was the  
2 reason. They didn't give me a reason why I was not a  
3 good fit. I asked her at the meeting. I said, "Well,  
4 can I apply again for the Domestic Violence Unit," and  
5 she said, "No," and reiterated once again that I was no  
6 longer a good fit.

7 Q Did Rebecca McKay remain in charge of that unit --

8 A Yes.

9 Q -- after you left, and did she receive any promotion  
10 after that in the Department?

11 MR. SKLAR: Hold it. Let me just get my  
12 objection out. Form and foundation. Give an answer if  
13 you have one.

14 THE WITNESS: I don't know how long after that,  
15 but I am aware now that she is a captain.

16 Q (By Mr. Smith) Okay. And as a result of filing that  
17 complaint and the investigation that followed, did you  
18 receive any form of discipline from the Department?

19 MR. SKLAR: I'll object to form and foundation  
20 again.

21 THE WITNESS: No. I was transferred to the  
22 12th Precinct unwillingly.

23 Q (By Mr. Smith) And did you ask your union representative  
24 to file a grievance about that transfer?

25 A I don't know if I did or not. After speaking to Mark

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1 Young and he told me what he told me, I don't know if I  
2 did or not because what would be the purpose if he  
3 already told me that some battles are not worth fighting.

4 Q Okay. And so from the Dumping Unit according to your MAS  
5 Sheet, you go over to the 12th Precinct.

6 A Yes.

7 Q Now, what was your role at the 12th Precinct?

8 A I was a Patrol Supervisor. They call it a one-for-one  
9 transfer. Apparently, I had heard and I'm not  
10 speculating, they wanted a sergeant from No. 12 to  
11 replace my position at the General Assignment Unit, so  
12 they did what's called a one-for-one. I went to the 12th  
13 Precinct and he went to the Illegal Dumping Unit, General  
14 Assignments.

15 Q Now, in the period that you joined DPD as a Patrol  
16 Sergeant up until the point you're at the 12th Precinct,  
17 to your knowledge did any officers or supervisors make  
18 any complaints against you to your knowledge?

19 A Not to my knowledge.

20 Q And Mr. Ball, you don't have any issues relating to  
21 female supervisors, do you?

22 A I have no issues relating to females, period.

23 Q So according to your MAS Sheet you go from the 12th  
24 Precinct where you indicated you were a Road Patrol  
25 Sergeant to where this says Investigative Operations?

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1 A Yes.

2 Q Okay. And it says you go into Investigative Operations  
3 in July of 2018. I guess tell me about Investigative  
4 Operations? What does that mean?

5 A That's the same, basically the same thing as the Criminal  
6 Investigation Unit where I had been working. It's a  
7 detective unit. It's been labeled several different  
8 things. I think now it's called the Precinct Detective  
9 Unit, PDU, but that's where I am. That's where I was  
10 until I retired.

11 Q Now, Investigative Operations, is that something that is  
12 inclusive of all DPD's policings?

13 A Each precinct has an Investigative Operations Unit. Mine  
14 was 10-PDU which was 10th Precinct Detective Unit. The  
15 12th Precinct has one; 12-PDU, 9-PDU and so forth.

16 Q And so in your MAS Sheet when it shows you went from 12th  
17 Precinct to Investigative Operations, you were going to  
18 the 10th Precinct's PDU at that time. Is that correct?

19 A Well, Investigative Operations is a unit within itself  
20 and they can send you to anywhere they seen fit. Even  
21 though I was assigned to the Investigations Operations,  
22 at any time they could have sent me to any other  
23 Investigative Operations Unit throughout the city. It  
24 just so happened that they sent me to the 10th Precinct.

25 I was sent to the 6th Precinct at first. When

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1 I arrived at the 6th Precinct, I was informed by the  
2 commander that I had been transferred to the 10th  
3 Precinct before I even got into the door at the 6th  
4 Precinct, so that's how that goes. Wherever they need  
5 you, that's where you go.

6 Q Okay. Thanks for clearing that up. So to your knowledge  
7 what month and year did you show up on the doorsteps of  
8 the 10th Precinct's PDU?

9 A 7-30-2018.

10 Q Okay. So that date is accurate?

11 A That's approximately. I couldn't tell you for sure, but  
12 that seems to be right.

13 MR. SMITH: One moment here, Mr. Ball.

14 MR. SKLAR: Hello? All right. Sorry about  
15 that. I hope this doesn't continue. I apologize.

16 MR. SMITH: Did you get kicked off, Brother  
17 Counsel?

18 MR. SKLAR: I did. I just got kicked back on.  
19 Just keep going whatever is going on. Just keep asking  
20 your questions.

21 MR. SMITH: All right. Thank you.

22 Q (By Mr. Smith) So I want to take this time and we'll talk  
23 about some of the duties of a sergeant just overall, so  
24 I'm going to stop sharing my screen here and Mr. Ball and  
25 Brother Counsel, I'm going to present to you what I have



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1 labeled as Defendants' Exhibit 10. I'm jumping around  
2 here and I'm going to share my screen and give you a  
3 chance to peruse it.

4 (At 10:45 a.m., Defendants'  
5 Exhibit 10 marked)

6 Q (By Mr. Smith) And can you see this document Mr. Ball  
7 and Brother Counsel?

8 A Yes, sir.

9 Q Okay. And this is Detroit Police Department Manual,  
10 Directive 101.2 labeled Department Rank Structure and I  
11 want to direct your attention to 101.2-1 labeled Policy  
12 and I'll give you a chance to read that Mr. Ball. Let me  
13 know when you're done.

14 A Okay. Part of it is cut off by the pictures to the  
15 right.

16 Q Here. Let me see if I can enlarge it. Does that help?

17 A It's still cut off. I can read:

18 "The structure of the Detroit Police Department  
19 (DPD is designed for effect,"-- and then it cuts  
20 off.

21 Then it goes to:

22 " . . achieving the Department's mission. The  
23 Chief of Police is responsible."

24 MR. SMITH: Can you see that Brother Counsel?

25 I want to make sure that it's not a technical issue on my

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1 end.

2 COURT REPORTER: You have to make the document  
3 a little smaller so that the photos don't overlay.

4 MR. SKLAR: There you go.

5 MR. SMITH: Sorry about that.

6 Q (By Mr. Smith) Can you see it now, Mr. Ball?

7 A Yes, sir.

8 Q Okay. Now, I want you to look at 101.2-1 Policy.

9 A Yes, sir.

10 Q Let me know when you're done reading it, Mr. Ball.

11 A Yes, sir. Okay. I'm ready.

12 Q Okay. And I'm going to read the third sentence there.

13 It says:

14 "DPD members have responsibilities which are  
15 commensurate with rank. Within the rank structure,  
16 supervisors may delegate appropriate duties to  
17 subordinates. Supervisors are accountable for the  
18 activities of members under their immediate control.  
19 It is the policy of the DPD to provide uniform  
20 direction to all members through an established  
21 chain of command in order to promote consistency,  
22 reduce confusion, and enhance public safety  
23 operations."

24 And so is it clear to you within the DPD Manual and the  
25 reading of this policy that there are some duties that

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1 are specifically attributed to you as a sergeant?

2 A Yes.

3 Q Okay. So then I want to go down to, I'll scroll down to  
4 Directive 101.2-14. It starts on the bottom of page 7.

5 I'll give you an opportunity to read that, Mr. Ball. Let  
6 me know when I need to scroll down.

7 A Okay. You can scroll down.

8 Q Okay. I'm going to go back up here and read, so 101.2-14  
9 labeled Sergeant.

10 "A sergeant shall be directly accountable to  
11 the lieutenant in charge of a specific assignment.

12 In the absence of a lieutenant, the designated  
13 sergeant or senior ranking sergeant shall assume the  
14 duties and responsibilities of the lieutenant."

15 I am going to stop right there for just a second so I can  
16 ask this question. So based on this policy if your  
17 lieutenant is not around, as a sergeant you have  
18 additional duties that you're responsible for. Is that a  
19 fair reading of that policy, Mr. Ball?

20 MR. SKLAR: Object to form and foundation.

21 Your understanding is fine. Go ahead.

22 THE WITNESS: Yeah. Yes, sir.

23 Q (By Mr. Smith) Okay. Now it says:

24 "A sergeant shall be responsible for the  
25 following duties."

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1 I won't read all that but I want to skip down to point 2.  
2 Subsection 2, I should say. It says:

3 "A sergeant shall assume any other duties and  
4 responsibilities, which may be delegated by a  
5 superior officer or as set forth in Department  
6 rules, regulations, directives, orders, or  
7 procedures."

8 Here's my question, Mr. Ball. On a reading of subsection  
9 2, would you agree that you can have additional duties  
10 based on what's said in the Department rules,  
11 regulations, directives, orders, or procedures?

12 MR. SKLAR: Well, I'll object to form and  
13 foundation. You can answer.

14 THE WITNESS: Yes.

15 Q (By Mr. Smith) I'm sorry. I didn't hear you, Mr. Ball.

16 A I said yes.

17 MR. SMITH: I'm going to stop sharing my screen  
18 because I have another directive and forgive me. I have  
19 three computer screens and my mouse is all over the place  
20 here.

21 I'm going to present to you Mr. Ball and  
22 Brother Counsel what I have marked as Defendants' Exhibit  
23 9.

24 (At 10:51 a.m., Defendants'  
25 Exhibit 9 marked)

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1 Q (By Mr. Smith) I am going to share this document and can  
2 you see that, Mr. Ball?

3 A Yes. This has to be - okay, I can see it now.

4 Q And this is DPD Manual Directive 101.10 labeled  
5 Supervision and Mr. Ball, I want to direct your attention  
6 to 101.10-1 Purpose and I'll just read it for times sake.  
7 It says:

8 "The purpose of this directive is to provide  
9 all supervisors of the Department with an overview  
10 of Department expectations and general principles of  
11 supervision."

12 The question I have for you Mr. Ball is a sergeant is  
13 considered a supervisor. Correct?

14 A Yes.

15 Q And I now want to direct your attention to that same  
16 directive, 101.10-4 General Expectations:

17 "The Department has the following general  
18 expectations of supervisors."

19 I'm not going to read all that, but I just want to hop  
20 down to (d). It says:

21 "All supervisors shall strive to maintain a  
22 high level of quality in reports generated by  
23 members. Supervisors shall check all reports for  
24 necessary elements, legibility, and clarity. When  
25 verifying an arrest report, the supervisor is

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1           indicating that they have made a determination that  
2           probable cause exists for the arrest. In the event  
3           a supervisor determines an arrest is lacking in  
4           probable cause, the arrested person shall be  
5           released, and the supervisor shall verify the report  
6           only after it is noted on the report that the person  
7           was not held and the reason(s)."

8           Mr. Ball, given what I've read, would this not apply to  
9           you as a sergeant which we agreed that you are a  
10          supervisor? Would this provision apply?

11       A     Yes.

12       Q     I'm going to stop sharing my screen here. Now, in that  
13           directive it talks about probable cause. In your 35  
14           years of policing experience as both a patrol officer and  
15           a sergeant, what do you understand that term to mean?

16       A     What do I think that term probable cause means?

17       Q     That's correct, Mr. Ball.

18       A     Probable cause to me is that a crime has been committed  
19           and you have probable cause to believe that you, the  
20           person arrested has committed the crime and I go from  
21           there.

22       Q     And is it your understanding being formed by your years  
23           of policing that probable cause is a requirement of a  
24           valid arrest?

25       A     Yes.

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1 MR. SMITH: I am going to share some additional  
2 Department directives with you here.

3 (At 10:55 a.m., Defendants'  
4 Exhibit 8 marked)

5 Q (By Mr. Smith) I am going to share my screen here.

6 A Okay.

7 MR. SMITH: And Brother Counsel if you wouldn't  
8 mind being mindful of the time for us so we don't miss  
9 our status conference.

10 MR. SKLAR: We got about an hour before we've  
11 got to check in.

12 Q (By Mr. Smith) Let me reduce this here. Can you see this  
13 document, Mr. Ball?

14 A Yes.

15 Q Now, this is Detroit Police Department Manual Directive  
16 202.1 labeled Arrests and Mr. Ball I want to direct your  
17 attention to 202.1-1 Purpose. It says:

18 "To provide guidelines and procedures for  
19 members of the Detroit Police Department (DPD) in  
20 making lawful arrests, the detention of material  
21 witnesses, to provide supervisory review of arrests  
22 for probable cause, and to provide for prompt  
23 judicial review of arrests."

24 So upon me reading this to you Mr. Ball, would it be fair  
25 to say that this directive lays out the guidelines that

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1 officers must follow when making arrests?

2 A I'll say yes.

3 Q Yeah. I want to direct your attention to 202.1-2 that  
4 talks about Policy. I'll read it.

5 "Short of the application of force, an arrest  
6 is the most serious action an officer can undertake.  
7 An arrest can cause repercussions throughout a  
8 person's life, even if eventually found not guilty  
9 or never brought to trial. The most important legal  
10 question facing an officer at the moment of arrest  
11 is the existence of probable cause. Without  
12 probable cause, the arrest is illegal and the  
13 evidence of criminality that was obtained because of  
14 the arrest is inadmissible. It is the policy of the  
15 DPD:

16 - That no person shall be arrested with less than  
17 probable cause having been established at the time  
18 of the arrest;

19 - That a DPD supervisor shall review every arrest;  
20 and in all instance in which a probable cause  
21 determination is made, document same on the CRISNET  
22 report;

23 - That for all arrests unsupported by probable  
24 cause, the Review of Arrest Exception Form) UF-001)  
25 shall be completed within twelve (12) hours of the



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1 event;

2 - That for every arrestee, a warrant request  
3 for arraignment on the arrest shall be submitted to  
4 the Prosecutor's Office within forty-eight (48)  
5 hours of arrest;

6 - That in every instance in which an exception of  
7 this Department's prompt judicial review policy  
8 occurs, the exception shall be documented on the  
9 Warrant Tracking Hold Form (UF-004/007); and,

10 - That all arrests in which an arraignment warrant  
11 was not sought, the Warrant Tracking Hold Form (UF-  
12 004/007) shall be completed within twelve (12)  
13 hours."

14 The question I have for you Mr. Ball, based on the policy  
15 I just read to you, does this policy not clearly state  
16 that an arrest without probable cause is illegal?

17 A Yes.

18 Q I want to direct your attention to 202.1-3 Definitions.  
19 Under that there is 202.1-3.1 which talks about Arrest.  
20 It defines arrest and I'll read it. It says:

21 "An arrest is a seizure of greater scope or  
22 duration than an investigatory or Terry stop. An  
23 arrest is lawful when supported by probable cause."

24 Mr. Ball, the question I have for you is, under that  
25 definition of Arrest, it clearly says that an arrest is

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1           lawful if it's supported by probable cause. Is that  
2           correct?

3     A     Yes.

4     Q     The same subsection also defines Probable Cause at 202.1-  
5           3.4 Probable Cause. It says:

6                       "A reasonable belief that an individual has  
7                       committed, is committing, or is about to commit an  
8                       offense."

9           Can we both agree that the DPD Manual lays out its  
10          definition of what probable cause is?

11    A     Yes.

12    Q     I want to direct your attention within that same  
13           directive to 202.1-4 Authority and within that, I want  
14           you to look at 202.1-4.3 labeled Illegal Arrest and I'll  
15           read it. It says:

16                       "Unlawful restraint of a person's liberty for  
17                       any length of time is considered an illegal arrest.

18                       Even if justified, a restraint of an individual  
19                       may be considered unlawful if executed in an  
20                       unreasonable manner.

21                       An officer who restrains or arrests a person  
22                       unlawfully is subject to criminal and/or civil  
23                       sanctions, as is every person who aids in the  
24                       unlawful arrest.

25                       Officers shall bear in mind that every person

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1 has a lawful right to resist an illegal arrest.

2 However, a citizen's right to resist an unlawful

3 arrest does not include the right to use deadly

4 force."

5 The question I have for you Mr. Ball is this Department  
6 guideline clearly articulates what an illegal arrest is.

7 Is that correct?

8 A Yes.

9 Q Okay. And it also clearly says that an officer who  
10 arrests a person unlawfully is subject to criminal and/or  
11 civil sanctions. Is that correct?

12 A Yes.

13 Q Would you agree that an officer who makes an illegal  
14 arrest, that's misconduct?

15 MR. SKLAR: I'll object to form and foundation.

16 You can go ahead and give an answer if you have one.

17 THE WITNESS: I can't say that it's misconduct.

18 I think I'll have to go by a case-by-case basis, so I'm  
19 not going to make a broad statement and say that it's  
20 misconduct.

21 Q (By Mr. Smith) But it could be, couldn't it?

22 MR. SKLAR: I'll object to the form and  
23 foundation. Calls for speculation. You can answer.

24 THE WITNESS: Yeah. I don't want to speculate,  
25 but if you want me to speculate, sure it could be, but I

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1 don't speculate when I go over my cases.

2 Q (By Mr. Smith) Okay. So I want to direct your attention  
3 to 202.1-7.1. So 202.1-7 talks about Probable Cause and  
4 202.1-7.1 talks about Reviewing Arrests and I'll read  
5 that Mr. Ball. It says:

6 "When an individual has been arrested is  
7 brought into the DDC, the officer-in-charge (OIC) of  
8 the DDC desk shall review the circumstances of the  
9 arrest and confirm whether or not probable cause  
10 existed at the time of the arrest. If the reviewing  
11 supervisor determines that there was not probable  
12 cause to detain the person, he/she shall be  
13 immediately released."

14 The question I have for you about this question Mr. Ball,  
15 about this provision Mr. Ball, is at the DDC, a  
16 supervisor should be checking that there's probable cause  
17 for incoming cases. Correct?

18 MR. SKLAR: Object to form and formation.

19 That's each individual case that comes in. Correct?

20 Q (By Mr. Smith) I'll read it again Brother Counsel.

21 "When an individual who has been arrested is  
22 brought into the DDC, the officer-in-charge (OIC) of  
23 the DDC desk shall review the circumstances of the  
24 arrest and confirm whether or not probable cause  
25 existed at the time of the arrest."

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1 MR. SKLAR: Right, for the individual arrest.

2 I got it.

3 Q (By Mr. Smith) That's how I would interpret it. So with  
4 that said Mr. Ball, the DDC supervisor who does the  
5 intake is required to check for probable cause for each  
6 and every arrest. Correct?

7 A According to this, yes, sir.

8 Q According to that policy. I'm going to stop sharing  
9 screen and I'll go to the next exhibit and by the end of  
10 this, we'll all be well-versed in DPD directives.

11 (At 11:05 a.m., Defendants'

12 Exhibit 7 marked)

13 Q (By Mr. Smith) I'm now going to present to you Mr. Ball  
14 Defendants' Exhibit No. 7. Can you see that Mr. Ball?  
15 Oh, not yet. Can you see that Mr. Ball?

16 A Yes.

17 Q Okay. And this is the Detroit Police Department's Manual  
18 Directive 102.3 Code of Conduct and so I want to direct  
19 your attention to 102.3-1 Purpose. It says:

20 "To provide additional specificity to the  
21 standards of conduct embodied in the Law Enforcement  
22 Officer's Code of Ethics, the Detroit Police  
23 Department's (DPD) mission and value statement, in  
24 order to enable all officers of this Department to  
25 better understand the prohibitions and limitations

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1           pertaining to their conduct and activities, while on  
2           and off duty.

3                   This Directive is not intended to serve as an  
4           exhaustive treatment of requirements, limitations,  
5           or prohibitions of a member's conduct and activities  
6           established by this Department. Rather, it is  
7           intended to alert members to some of the more  
8           serious and often problematic matters involving  
9           police conduct and ethics, specify (where possible)  
10          actions and inactions that are contrary to and  
11          conflict with the duties and responsibilities of  
12          members and guide members in conducting themselves  
13          and their affairs in a manner that reflects  
14          professionalism. Additional guidance on matters of  
15          conduct is provided by other specific DPD  
16          Directives, policies and procedures, and by DPD  
17          supervisory officers."

18          Mr. Ball, the provision I just read to you from the Code  
19          of Conduct, does this put officers on notice that  
20          everything within this Code of Conduct would potentially  
21          govern how they should conduct themselves as DPD members?

22                   MR. SKLAR: I object to form and foundation.  
23          You can give an answer, sir.

24                   THE WITNESS: According to this, yes.

25          Q        (By Mr. Smith) And so also I want to direct your

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1 attention to 102.3-2 Policy.

2 "Actions of members that are inconsistent,  
3 incompatible or conflict with the values established  
4 by this Department negatively affect its reputation  
5 and that of its members. Such actions and inactions  
6 detract from the Department's overall ability to  
7 effectively and efficiently protect the public,  
8 maintain peace and order, and conduct other  
9 essential business. Therefore, it is the policy of  
10 this Department that all members shall conduct  
11 themselves in a manner that reflects the ethical  
12 standards consistent with the rules contained in  
13 this Directive and otherwise disseminated by this  
14 Department."

15 Mr. Ball, would you agree that this particular directive  
16 makes clear the Department's expectations of how officers  
17 conduct themselves?

18 MR. SKLAR: Object to form and foundation  
19 again. Go ahead. You can answer.

20 THE WITNESS: According to this, yes.

21 Q (By Mr. Smith) I want to direct your attention to 102.3-  
22 5 labeled Member's Responsibilities, in particular,  
23 102.3-5.1 that's labeled General and I just want to read  
24 the first two provisions. It says:

25 "In addition to the Code of Ethics, a member

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1 must observe all laws, regulations, procedures,  
2 and lawful commands of all ranking members of  
3 this department. Any action taken in violation  
4 of any laws, regulations, procedures, commands,  
5 or contrary to DPD policy, shall subject the  
6 member to possible criminal prosecution, re-  
7 training or re-instruction, civil liability  
8 and/or disciplinary action, which may result in  
9 reprimand, suspension, forfeiture of pay,  
10 dismissal, or any other penalty the Chief of  
11 Police may lawfully direct."

12 Mr. Ball, that provision I just read, does it not place  
13 DPD sworn officers on notice of the potential punishments  
14 for not following the Department's laws and regulations  
15 and procedures, etc.?

16 MR. SKLAR: I'll object to form and foundation  
17 again, but you can answer if you have one.

18 THE WITNESS: According to this, yes.

19 Q (By Mr. Smith) In a separate provision, I'm reading from  
20 No. 2.

21 "Members must be truthful, polite, and orderly  
22 at all times. Members must display patience,  
23 command of temper, and always use discretion in  
24 their private as well as professional life, so that  
25 their conduct is unquestioned. Members who withhold



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1 information, fail to cooperate with Departmental  
2 investigations, or who fail to report the misconduct  
3 of members to be a supervisor, whether on or off  
4 duty, shall be subject to disciplinary action."

5 Mr. Ball, in regards to that provision, does that  
6 provision not make it clear that officers or sworn DPD  
7 personnel have a duty to report the misconduct of other  
8 members?

9 MR. SKLAR: Object to form and foundation  
10 again, but you can go ahead and answer, sir.

11 THE WITNESS: According to this document, yes.

12 Q (By Mr. Smith) And so I want to direct your attention to  
13 102.3-6.1 which addresses Prohibited Acts. I'm sorry.  
14 102.3-6 which addresses Prohibited Acts, specifically  
15 102.3-6.1 General.

16 "Members are directly accountable for their  
17 actions, through the chain of command, to the Chief  
18 of Police. The following acts are in direct  
19 violation of Department policy. This list of  
20 violations is not exhaustive and does not prohibit  
21 any member from being charged and disciplined,  
22 separately or in conjunction with, a violation of  
23 any other portion of this manual, Department policy,  
24 rule, or procedure. Violations are listed by  
25 general category for easier reference."

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1 And so I want to go to 102.3-6.2 Accountability. So Mr.  
2 Ball, would you agree that the Department in this policy  
3 is clearly laying out a bright line rule for certain  
4 violations? Let me rephrase that.

5 Isn't it clear that the Department is laying  
6 out what it believes to be prohibited acts that violate  
7 the express guidelines, policies, and procedures?

8 MR. SKLAR: Object to form and foundation, but  
9 go ahead and answer.

10 THE WITNESS: It could be a little bit clearer,  
11 but according to this document yes.

12 Q (By Mr. Smith) Okay. So I want to read 102.3-6.2  
13 Accountability and I just want to read the second  
14 subsection.

15 "Failure to report the misconduct of any member  
16 and/or take appropriate action."

17 Now, given this provision when you consider the one we  
18 just read above it, isn't it clear Mr. Ball that a sworn  
19 member who failed to report misconduct of another member  
20 has committed a prohibited act under Departmental  
21 guidelines?

22 A According to this document, yes.

23 Q Okay. And within that same Accountability subsection,  
24 I'm going to read to you 102.3-6.14 labeled Job Standards  
25 and I want to go down to subsection 7. It says:

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1 "Neglecting to report any member known to be  
2 guilty of violation of any rule or order issued for  
3 the guidance of the DPD or for failure to perform  
4 assigned duties."

5 Mr. Ball, doesn't this particular subsection make it  
6 clear that you violate the Accountability Standards by  
7 neglecting to report members who are guilty of violations  
8 of any rule or order issued by DPD?

9 A According to this, yes.

10 MR. SMITH: Brother Counsel, I need a bathroom  
11 break here. I think we all could use a quick bathroom  
12 break.

13 MR. SKLAR: What, ten minutes?

14 MR. SMITH: Yes, ten minutes will do. I'll be  
15 brief.

16 MR. SKLAR: Ten minutes is cool.

17 MR. SMITH: All right. I'm going to stop the  
18 share here.

19 (At 11:15 a.m., recess taken)

20 (At 11:25 a.m., back on the record)

21 Q (By Mr. Smith) I'm going to share my screen. I've got  
22 one last one here and I think I'll be done glazing  
23 everyone's eyes over here and we're still in the Code of  
24 Conduct Mr. Ball and that's Exhibit 7. I'm going to  
25 share my screen. Can you see that, Mr. Ball?

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1 A Yes, I can.

2 Q Okay. And we're under Job Standards. Job Standards is  
3 102.3-6.14 Job Standards and I want you to see point 3.  
4 Can you read that for me, Mr. Ball?

5 A (Reading):

6 "Ignorance of rules or orders."

7 Q Okay. And that's a subsection just so we're clear of  
8 Prohibited Acts and so based on that small phrase, is it  
9 clear that the Department expects you to know what's in  
10 this manual?

11 A Yes. According to this, yes.

12 Q So I'm going to stop sharing screen. And so Mr. Ball my  
13 question to you is, given the different provisions from  
14 the DPD Manual that I've read, do you understand that  
15 your conduct was governed by this manual among other DPD  
16 policies and procedures

17 A Do I understand that my conduct was?

18 Q In your time with DPD as both a patrol officer and a  
19 sergeant, is it clear to you that your conduct was  
20 governed by the directives in the DPD Manual?

21 A Yes.

22 Q So let's talk about 10th Precinct PDU. So you show up to  
23 PDU. Exactly what was your role at PDU when you showed  
24 up on its doorsteps?

25 A I was a supervisor assigned to the Detective Unit.

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1 Q Did you supervise police officers, investigators? Who  
2 did you supervise?

3 A Police officers, detectives.

4 Q And about how many officers or detectives did you  
5 supervise?

6 A Maybe ten. We had the lowest number of detectives in the  
7 whole city.

8 Q Let's talk about the composition of that unit when you  
9 showed up. When you initially showed up at PDU, who was  
10 your direct reports? Who was your lieutenant?

11 A Maseko. (phonetic)

12 Q Do you have a first name?

13 A Michael, I believe.

14 Q And how long was Lieutenant Maseko there before he  
15 transitioned to the next duty location?

16 A He may have been down there for maybe a year before he  
17 got promoted to captain.

18 Q And who became the lieutenant of the unit after Maseko  
19 left?

20 A Starks.

21 Q Now, at that time it was Lieutenant Starks. When did  
22 Lieutenant Starks become the lieutenant of the unit?

23 A I'm not sure. Whenever he left.

24 Q Do you recall what year it was?

25 A No.

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1 Q And to your personal knowledge, how long did Lieutenant  
2 Starks stay in the role as lieutenant of the PDU?

3 A Maybe a couple of years.

4 Q Now, when you initially came to the PDU, who was the  
5 commander for No. 10?

6 A Kyriacou.

7 Q Repeat the name for me one more time, Mr. Ball.

8 A Kyriacou. Don't ask me to spell it because I would tear  
9 it up if I tried to.

10 Q Kyriacou? And how long to your knowledge was Commander  
11 Kyriacou there at the 10th Precinct?

12 A He was there for years.

13 Q Do you know when Commander Kyriacou left the 10th  
14 Precinct, what year?

15 A No, I don't recall for sure. Maybe 2020.

16 Q I believe he didn't leave not long ago.

17 A Right.

18 Q Okay. And so who took over for Commander Kyriacou.  
19 Kyriacou. I'm sorry.

20 COURT REPORTER: Excuse me. You're saying  
21 Kyriacou, like Nick Kyriacou. Right?

22 THE WITNESS: Right. That's him. That's  
23 correct.

24 MR. SKLAR: Nice job. That's after years of  
25 experience coming in. I like it.

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1 Q (By Mr. Smith) Let me be clear because I'm a little lost  
2 here, so the actual first name is Nick. The last name is  
3 Kyriacou?

4 A Yes.

5 Q Got it. Okay. So after Commander Kyriacou left the 10th  
6 Precinct, who took over the commander position?

7 A I believe it was Tiffany Stewart. People were coming and  
8 going quickly there and I think it was Tiffany Stewart.  
9 There might have been somebody there briefly who never  
10 reported, but as I recall, Tiffany Stewart was the one  
11 who was in place.

12 Q And if I heard you correctly, you said you believed  
13 Commander Kyriacou left in 2020 and when do you believe  
14 Commander Stewart showed up at No. 10?

15 A About 2020.

16 Q And was Commander Stewart the commander of No. 10 up  
17 until you left the Department?

18 A Yes, sir.

19 Q Let's go back to Lieutenant Starks. Lieutenant Starks  
20 comes and she's the lieutenant over the 10th Precinct  
21 PDU. Who comes after Lieutenant Starks to fill that  
22 lieutenant position when Starks leaves?

23 A Lieutenant McCord.

24 Q And when does Lieutenant McCord show up to assume the  
25 role of lieutenant of the 10th Precinct PDU?

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1 A I'm not sure. Maybe 2021, 2020-2021 some time.

2 Q And was Lieutenant McCord the lieutenant in charge of the  
3 PDU up until the point you exited the police department?

4 A She was until I retired. Correct.

5 Q Okay. So let's go over I guess the chain of command from  
6 the point that you believe Lieutenant McCord arrived, so  
7 Lieutenant McCord is the lieutenant. To your knowledge,  
8 who did Lieutenant McCord report to? Who was her direct  
9 report?

10 A The captain and the commander.

11 Q And when you say "captain," who are you referencing?

12 A If Severy was there, it was him. Whoever the captain  
13 was.

14 Q And to your knowledge, when did Captain Severy arrive at  
15 the 10th Precinct?

16 A I'm not sure. Sometime shortly after - before Kyriacou  
17 left. Maybe six months before Kyriacou left.

18 Q Okay. Your prior testimony is that Kyriacou left in what  
19 you believe was 2020, so would it be fair to say that  
20 Captain Severy arrived at the 10th Precinct sometime in  
21 2020 or perhaps 2021?

22 A Perhaps, yes.

23 Q And so if I understand the chain of command correct,  
24 would Captain Severy - so McCord would report to Severy  
25 and Severy would report to Commander Stewart? Is that



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1 correct?

2 A Yes.

3 Q Who would Commander Stewart report to?

4 A Deputy Chief Fitzgerald. Charles.

5 Q Now Mr. Ball, is that chain of command you just cited to  
6 me specific to just the 10th Precinct?

7 A That's the chain of command for the 10th Precinct, but  
8 each precinct has a similar chain of commander. Each PDU  
9 has a similar chain of command.

10 Q Does PDU have its own chain of command like a dual chain  
11 of command perhaps?

12 A Well, PDU is a separate entity remember. It's just  
13 downtown. They have their own separate people in charge  
14 like Marlon Wilson was the deputy chief in charge of the  
15 PDUs, the Detective Units.

16 Q Okay. And so you said Deputy Chief Marlon Wilson. He  
17 oversaw all of the PDUs?

18 A Yes.

19 Q And just so I'm clear, Deputy Chief Wilson oversees the  
20 PDUs. Deputy Chief Fitzgerald oversees the command  
21 structure for No. 10. Is that right?

22 A I don't believe so. For the west side.

23 Q Okay. But DC Wilson does not report to Deputy Chief  
24 Fitzgerald, does he?

25 A I don't know if he does or not.

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1 MR. SKLAR: Let me just get my objection. I  
2 object to form and foundation. Marcellus, go ahead and  
3 answer if you have one.

4 THE WITNESS: I have no idea.

5 Q (By Mr. Smith) Okay. And so was Captain Severy within,  
6 did Captain Severy have to report to DC Wilson?

7 A I'm sure he will at some point in time.

8 Q And so what I'm trying to understand Mr. Ball is how the  
9 chain of command works. PDU seems to be embedded within  
10 each precinct and so I'm trying to understand how that  
11 chain of command works.

12 A PDUs are in the precincts. Each precinct has a PDU.

13 Q Okay.

14 A Deputy Chief Wilson is in charge of each PDU, each  
15 precinct's PDU. Each PDU has a lieutenant. They report  
16 to the commander. The commander reports to the deputy  
17 chief and after that, I don't know quite how it goes  
18 because they have executive meetings and I don't know  
19 what the structure is because we're not allowed to attend  
20 those, so I couldn't tell you after that.

21 Q Okay. Now, Deputy Chief Wilson and Deputy Chief  
22 Fitzgerald, who do they report to if you know?

23 A I would have to say the Chief's Office. I really don't  
24 know.

25 Q Okay. Now, do deputy chiefs customarily report directly

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1 to the chief or would they report to assistant chiefs?

2 A I'm not sure. It depends, I guess. It depends on  
3 whatever the situation is.

4 Q So I'm clear, if you had an issue with McCord, it would  
5 be permissible to take that issue to Captain Severy?

6 A Yes.

7 Q If you had an issue with Captain Severy, it would be  
8 permissible to take that issue to Commander Stewart?

9 A Yes, if I couldn't resolve it with either McCord or  
10 Severy at the time. I usually would try to go to them  
11 and talk to them directly.

12 Q Okay. Now, if you had that same issue and you couldn't  
13 get it resolved with McCord, you couldn't get it resolved  
14 with Severy, and you couldn't get it resolved with  
15 Commander Stewart, would you then go to Deputy Chief  
16 Fitzgerald?

17 A I had several options. I could go to him or I could make  
18 an EEOC Complaint. It depends on what the circumstance  
19 was.

20 Q Okay. Now, in that same fashion if it was a PDU  
21 specifically related issue and you had an issue with  
22 McCord and Severy, you could go to DC Wilson to address  
23 it?

24 A I could.

25 Q That sounds about right? Okay. Where in that command

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1 structure does Jacqueline Pritchard fit?

2 A She doesn't fit at all. She's not at the 10th Precinct.

3 Q At the time that Lieutenant McCord and Captain Severy

4 were your ranking officers at No. 10, where was

5 Jacqueline - at that time I think she was commander,

6 where was Jacqueline Pritchard assigned to if you know?

7 A Maybe Narcotics.

8 Q At what precinct? Do you know?

9 A Narcotics is not a precinct. It's a unit.

10 Q A unit. Okay.

11 A It's city-wide.

12 Q And is it right that she was the Commander of Narcotics?

13 A Yes.

14 Q And just so I'm clear, DC Wilson has oversight of the

15 PDUs but they're run within the, the PDUs are run within

16 the specific precincts?

17 A The PDUs are run within the precinct Detective Unit and

18 the precinct Detective Units report downtown to I believe

19 it was Captain Sevick (phonetic) at the time. I'm not

20 sure exactly who it was, but after it gets out of our

21 office, I really don't have too much knowledge of it

22 because I don't partake in those meetings.

23 Q Captain Sevick. Do you have a first name for Captain

24 Sevick?

25 A It might be Steven Sevick. I'm not sure.

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1 Q And who does Sevick report to?

2 A Captain Sevick was in PDUs. He probably reports to  
3 Wilson and he had some dealings with Severy and McCord.

4 Q Okay. Is it possible Mr. Ball that the 10th Precinct in  
5 Investigative Operations, they essentially have a  
6 separate chain of command?

7 A As pertains to the precinct itself?

8 Q The PDUs within the precinct because I'm trying to  
9 understand how the chain of command goes. I have two  
10 deputy chiefs. I have one that has oversight over the  
11 PDUs and I have a deputy chief that has oversight over  
12 the precinct, but the way the chain of command flows from  
13 bottom to top, it seems that you would in some form or  
14 fashion report to both those chain of commands. Do I  
15 have that correct?

16 A If they needed to, you would report to anyone who would  
17 summon you, but like I said before, the PDUs are an  
18 entity within itself. They're a unit within themselves  
19 and they have their own division. They're not part of  
20 the 10th Precinct. They're not included in any roster  
21 that I know of. They're included within the Detective  
22 Unit's roster which is separate from the precincts.

23 Q Okay. Now, given that chain of command in which you were  
24 the sergeant of the PDU with supervision over a number of  
25 detectives, let's talk about exactly what role and job

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1 duties you kind of executed within the PDU, so let's go  
2 over what were some of your job duties in the PDU?

3 A I would review individual cases and assign arrests --

4 Q Okay.

5 A -- and I would supervise officers. I would check their  
6 case notes. I would go out and help conduct  
7 investigations. I would interview witnesses. I would  
8 conduct interrogations. I would respond to non-fatal  
9 shootings on duty and off duty and I was responsible for  
10 the upkeep of the officers and detectives case notes  
11 and I would report to the lieutenant for meetings  
12 concerning the cases.

13 Q Now, when you said you would go over the cases, what were  
14 you looking for in particular when you were going over  
15 those cases?

16 A The Progress Notes.

17 Q Okay. And were you looking for anything else in  
18 particular?

19 A As far as?

20 Q In executing your job as a sergeant, was there a  
21 checklist of things you needed to look for when you  
22 reviewed the cases?

23 A Well, each case was different. If you're trying to ask  
24 me something specific, then I might be better to answer  
25 your question, but each case I would supervise was on an

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1 individual basis. Each case was different. Some cases  
2 would require a lot. Some cases require more. I would  
3 run through the cases and I would sometimes say you need  
4 to go interview this person. This statement isn't  
5 complete. There were things like that.

6 Q And did you review all the cases that came in or was that  
7 one of your jobs was reviewing for probable cause?

8 A Probable cause, yes.

9 Q Okay. And so when you reviewed those cases for probable  
10 cause, if you found that there was no probable cause for  
11 the case, what did you do?

12 A I talked to the officer-in-charge of the case and in some  
13 cases I would talk to the officers who made the arrest,  
14 if possible. I'll get in touch with them and then after  
15 that, I would sit down and I'd make a determination if we  
16 had enough probable cause to proceed or release this  
17 prisoner until we obtain more evidence and then I would  
18 do what's called if we got the new evidence that  
19 determined we would do what was called a not in custody  
20 arrest.

21 Sometimes evidence will be that we're waiting  
22 for DNA. Sometimes we'll be waiting for another  
23 statement. It all depends on the case.

24 Q Okay. And you did all this, this was done prior to  
25 assigning cases out to individual investigators?

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1 A I wouldn't say it was done prior to. It may have been  
2 done in the process of.

3 Q Well, let me ask you this, Mr. Ball. Why would you  
4 assign a case to an investigator if you have questions  
5 about the probable cause for the case?

6 A It still has to be assigned. An officer has to be in  
7 charge. An officer has to do, follow procedure as far  
8 as, you know, being instructed by me or whatever other  
9 sergeant or lieutenant as far as to, you know, what the  
10 process is to release or proceed.

11 You have to have an officer-in-charge. That  
12 doesn't mean that it's going to court, but you have to  
13 have an officer-in-charge of the case for the references.

14 Q Help me reconcile this, Mr. Ball. We just read  
15 Department regulations which said an arrest without  
16 probable cause is essentially an illegal act.

17 A Ah-huh.

18 Q Why would you need investigators to handle files where we  
19 think an illegal act has occurred?

20 A Because the person is in custody. You have to have  
21 somebody to follow-up on it. You just can't dismiss it  
22 and say oh, this was illegal, let's discharge this person  
23 and that's the end of it. You have to have somebody  
24 follow-up on it because if you don't, you may end up in a  
25 proceeding like this now.



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1 Q And so if I understand you right, the report comes in.

2 You see it has an issue with probable cause and that

3 report then gets assigned to an investigator to

4 investigate solely the issue of probable cause?

5 A The investigator and myself go over the entire case and

6 if that person is in custody, then I'll make the decision

7 to release this person pending or just release the person

8 completely because no matter what you investigate, there

9 was no probable cause for the arrest.

10 MR. SKLAR: Hey, Andrae, --

11 MR. SMITH: I know we're getting at that time.

12 We're getting close.

13 MR. SKLAR: Yes. I wanted to tell you it's

14 11:54. It's your show. Whenever you want to break.

15 MR. SMITH: Let's break now and when we come

16 back Mr. Ball, I'll have you walk me through a case so I

17 can better understand the process that you conduct in

18 your role as a sergeant, so Madame Reporter, we're going

19 to go off the record for about a half hour. We have a

20 status conference with the Magistrate Judge in this

21 matter, so we should be gone about a half hour and then

22 we'll be right back.

23 MR. SKLAR: Yeah. Let's reconvene at 12:30.

24 MR. SMITH: Yeah, we can do that.

25 (At 11:54 a.m., recess taken)

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1 (At 12:32 p.m., back on the record)

2 MR. SMITH: Madame Court Reporter, can you read  
3 my last question back?

4 COURT REPORTER: Sure.

5 (At 12:33 p.m., the Court Reporter readback the  
6 question as follows:

7 "Question: And so if I understand you right,  
8 the report comes in. You see it has an issue  
9 with probable cause and that report then gets  
10 assigned to an investigator to investigate  
11 solely the issue of probable cause?" )

12 Q (By Mr. Smith) Okay. I'll go on from there. So Mr.  
13 Ball, a report comes in with an issue that you notice of  
14 probable cause and if my memory serves me correctly,  
15 correct me if I'm wrong, you said you issue that, you  
16 still issue that case to a detective?

17 A Yes.

18 Q Okay. Here's my question. You were a supervisor.  
19 Correct?

20 A Yes.

21 Q As a supervisor, why would you still need to issue a case  
22 where there is probable cause concerns to the  
23 investigator? Aren't you empowered by the Department  
24 Manual, rules, regulations, and procedures to handle that  
25 on your own?

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1 A Yes, sir, and that's what I - in my duties, that's what  
2 I'm doing. You have to understand that each case comes  
3 in and has to be investigated whether it be that it had  
4 probable cause or not and then a disposition is made and  
5 case notes are made and then that case is either closed  
6 out or it is going to be investigated pending further  
7 investigation, and that's what we do even if it's not,  
8 even if there is a case where there is no probable cause.

9 You still have to have an OIC of that case  
10 because you're making a record and somebody has to be  
11 responsible for their duties and for why they did what  
12 they did or instructed them to do what they did and  
13 that's why it has to be assigned.

14 There is no non-assignment of any case that  
15 comes into the PDU. They are either closed out or  
16 they're investigated.

17 Q Help me understand something, Mr. Ball.

18 A Yes, sir.

19 Q So you have a case with - first of all, the Department,  
20 who says that you need to do, who says that the operating  
21 procedure is this way? Is that defined by some  
22 Department policy or guideline or who told you that it is  
23 done this way, the way you just described to me?

24 A That's each case is done on an individual basis and  
25 that's how we do it. You have to be accountable for each

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1 case that comes in. You have to realize that by the time  
2 that case has gotten to me, it's just been through two  
3 other supervisors who reviewed that case for probable  
4 cause.

5 When I get it, I'm the third person that gets  
6 it to review to see if probable cause has been  
7 established. I can't assume just because the sergeant or  
8 the lieutenant at the DDC or the sergeant on the desk or  
9 the lieutenant on the desk has reviewed the case and  
10 confirmed that there is probable cause.

11 In some cases, the DDC sergeant, lieutenant or  
12 the desk supervisor catches it and those cases don't get  
13 assigned to me because they make the determination to  
14 release that person because there has been no probable  
15 cause determined, but each case comes to me on a case-by-  
16 case basis and I go over each case regardless of the fact  
17 that if the sergeant or the lieutenant from the DDC or  
18 the front desk has reviewed it and that's my policy so  
19 some things don't quote-unquote, slip through the cracks.

20 Q Okay. So I don't want to put words in your mouth. I  
21 just want to make sure I'm fully understanding what  
22 you're saying. Now, we went over Department guidelines  
23 in the DPD Manual and I do believe you agree with me that  
24 an arrest without probable cause is an illegal act.

25 With that said - further in that manual, talks

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1           about the duty to ensure that that person is released and  
2           so what I'm asking is when you have those concerns about  
3           probable cause, is it the case where you say you still  
4           have to follow these policies and procedures.

5                       I want to know expressly who told you you have  
6           to do it this way?

7       A   Who told me?

8       Q   Yes. Is it defined in some guideline or policy  
9           somewhere? Who established this operating procedure for  
10          you that it has to be done this way where I must assign  
11          it to an investigator?

12      A   I don't think, I don't know about a policy. I don't do  
13          policy. I just - this is how I've been doing these cases  
14          for 20-something years and, you know, the Department has  
15          rules and regulations that you go by and you also employ  
16          some of your experience into it because you can't catch  
17          everything and when I get a case, I have to investigate  
18          on a reviewed basis and that's what I do and that's what  
19          has worked for me.

20                     I can't tell you what other sergeants do and  
21          what other lieutenants do, but this is what I do to  
22          ensure things don't happen and to make sure that I'm  
23          putting in place some type of procedure where I can catch  
24          things that may slip through the cracks. It's just  
25          something that I do.

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1 COURT REPORTER: May I interrupt for a minute?  
2 For the witness, there is really no light on his face.  
3 It's just a dark - if you could maybe open a shade or  
4 something. It's real helpful sometimes --

5 MR. SKLAR: A little bit better?

6 MR. SMITH: Brother Counsel, I think it might  
7 be better if he closes or kind of dims the one behind him  
8 and leaves the one to the side of him a little more open.  
9 Tammy, I think you want to see his lips?

10 COURT REPORTER: Yes. Sometimes with the  
11 recording it is a little bit muddled and the whole  
12 deposition I can't really see him.

13 THE WITNESS: I have a face for radio anyways.  
14 Hold on. Let me try to do this.

15 MR. SKLAR: Better.

16 COURT REPORTER: Oh, that's much better. You  
17 don't have a light in the room like an overhead light or  
18 anything?

19 THE WITNESS: There is one over me if you would  
20 like me to turn that on?

21 COURT REPORTER: Can we just try it? It's  
22 helpful.

23 THE WITNESS: Does that help any?

24 COURT REPORTER: I think it did. Thank you  
25 very much.

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1 MR. SMITH: May I proceed, Madame Court  
2 Reporter?

3 COURT REPORTER: Yes, and thank you. I  
4 appreciate it.

5 MR. SMITH: No problem.

6 Q (By Mr. Smith) Now, it sounds like you had your own  
7 individualized process for handling these cases. Is that  
8 correct, Mr. Ball?

9 A I can't say it was my own individualized. It worked well  
10 for me. I had no problems from my lieutenant or any of  
11 my other supervisors. You know, you have things that you  
12 go by, but you also, you know, from experience, you had  
13 things that will help you be a better supervisor and to  
14 catch things that may come through because if you just  
15 strictly rely on this procedure as you spoke of, then I  
16 would already know or believe that probable cause had  
17 existed because two other supervisors had read the arrest  
18 and reviewed it before I did.

19 Q With that said, what's the procedure for release of an  
20 arrestee?

21 A Well, when I review it, sometimes the arrestee has been  
22 given his Constitutional rights. He's been interrogated.  
23 I review the case. I review the body camera. I review  
24 the totality of the circumstances and from there, I make  
25 a determination if probable cause is here. If it's not,

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1           then we'll release it.

2                       Say, for instance, you arrest somebody with,  
3           you arrest three people and a gun is in the car. The gun  
4           is in the center console. You've got three people who  
5           have, you know, within wingspan of it, but the car is  
6           registered to no one in-car driver. It's just in a  
7           console. You can't prove that anybody went inside the  
8           console. You can't prove that they know it's inside the  
9           console, so what, you know, sometimes you can do an  
10          interrogation and that person may admit to it, but if you  
11          don't have that, you know, the only thing you can do is  
12          release the person and put the gun in for DNA and see if  
13          the gun comes back later and then you would put them back  
14          in custody.

15       Q   Now, you closed out cases prior to assigning it to a  
16           detective?

17       A   Yes, I have.

18       Q   What kind of case have you closed out prior to assigning  
19           to a detective?

20       A   When you say "close out," are you talking about release  
21           the prisoner?

22       Q   Typically, I guess, when you have cases, you have an  
23           intake process and they have some type of disposition  
24           where that involved it being forwarded to the Wayne  
25           County Prosecutor's Office or it results in the prisoner



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1           being released, so I'm leaving it broad in that regard  
2           whether you're done with the case. It's going to the  
3           prosecutor or you're closing it out because the prisoner  
4           needs to be released.

5       A   That's not necessarily true. I'm not closing it out.  
6           I'm submitting evidence, like I'm submitting the gun for  
7           DNA. I'm waiting for something like that to come back.  
8           If the gun comes back --

9                   COURT REPORTER: Excuse me, please. We lost  
10          Mr. Sklar.

11                  MR. SKLAR: All right. I'm sorry, guys. I got  
12          kicked off. I apologize.

13                  MR. SMITH: No problem Brother Counsel.

14                  COURT REPORTER: The witness was in the middle  
15          of an answer - let me get the question back here.

16                  MR. SKLAR: Yes, if you could. Thank you.

17                  (Whereupon, at 12:47 p.m., the Court Reporter  
18          readback the question as follows:

19                  "Question: Typically, I guess, when you have  
20          cases, you have an intake process and they have some  
21          type of disposition where that involved it being  
22          forwarded to the Wayne County Prosecutor's Office or  
23          it results in the prisoner being released, so I'm  
24          leaving it broad in that regard whether you're done  
25          with the case. It's going to the prosecutor or

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1           you're closing it out because the prisoner needs to  
2           be released.")

3       Q   (By Mr. Smith) I'll just pick up from here. So we'll do  
4           it this way, Mr. Ball. Tell me about cases that you have  
5           absolutely closed that were not going to be submitted to  
6           the prosecutor and the prisoner is simply being released.  
7           What were the reasons those cases were closed?

8       A   There are several reasons. It could be reluctance of the  
9           victim to prosecute. It could be the victim isn't  
10          consistent. It could be a number of reasons. It could  
11          be lack of probable cause. It could be that the  
12          officer's actions on their body cam don't reflect the  
13          actions that are recorded in their reports. There can be  
14          inconsistencies so-to-speak between the actual officer's  
15          actions in the body cam and inconsistencies in the report  
16          they submitted. There could be inconsistencies between  
17          what each officer says. There could be several reasons,  
18          so that's why I have to review each case on an individual  
19          basis to see exactly what's going on.

20                 In those cases, sometimes those cases are the  
21                 person is released pending further investigation and if  
22                 pending further investigation, then it's determined if  
23                 the case is closed out completely. I've closed out cases  
24                 like that. I've closed out cases where - let me see,  
25                 kind of give you a better example.

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1 I've closed out cases where the - I'm not going  
2 to say I closed them out, but - well, I can say that.  
3 I've closed out cases where the victim just totally says  
4 I'm not talking, I'm not having this, I'm not doing this.  
5 Basically, you know, forget about this. I'm done with  
6 it. We have a lot of cases like that as well. There's a  
7 plethora of cases and reasons that comes in that we can  
8 dismiss a case, but you have to remember each one is done  
9 on an individual basis and that's how we do it. That's  
10 how I do it. That's how it works so far.

11 Q And I understand that and so that's why I wanted to be  
12 clear about the kind of cases that would be closed out  
13 before even being assigned because what I'm trying to  
14 help me reconcile is is why don't cases that lack  
15 probable cause fit into that category of case you would  
16 close out before assigning to an investigator if you  
17 agree that the DPD Manual says this is one of the  
18 greatest offenses we could commit against a citizen is to  
19 arrest them without probable cause? Help me reconcile  
20 that?

21 A I'm not saying - well, okay. Let me put it this way.  
22 Say, for instance, the example I used where you have  
23 three people in the car and a gun is found in the console  
24 and you can't prove anybody had it.

25 Q I am going to stop you --

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1 COURT REPORTER: I'm sorry. Could you say that  
2 again?

3 THE WITNESS: Let me put it this way. On a  
4 case where like I indicated where three people are in the  
5 car and a gun was found in the console, I don't  
6 necessarily have to release those people and close out  
7 the case. What I could do is that I could submit the gun  
8 in for evidence. They run the gun for evidence and if  
9 DNA comes back indicating that someone in that car  
10 actually physically had possession of that gun, then I  
11 could submit a not in custody, but if the DNA comes back  
12 and no one in that car is shown to have physical  
13 possession of that weapon, then I would close out  
14 completely for insufficient evidence.

15 Q (By Mr. Smith) Mr. Ball, are all guns submitted for DNA  
16 analysis for fingerprinting purposes?

17 A I can't tell you that all guns are. I can tell you that  
18 I try to make sure that all our guns are.

19 Q And so what determination goes into how you assign cases  
20 to individual detective? What are you looking for? I'll  
21 just leave that for you to answer. What are you looking  
22 at when you assign particular cases out?

23 A Well, we have different units. We have a General  
24 Assignment Unit and that unit usually handles cases such  
25 as assault and batteries, B&E autos, domestic violence

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1 cases that don't meet the criteria for a husband and  
2 wife. You know, you may have a domestic violence case  
3 for a brother and sister, grandmother and granddaughter.  
4 You know, things like that. B&Es of dwellings and then  
5 we'll have the B&E crew. Those cases, B&Es, breaking and  
6 enterings, are assigned to people assigned to the B&E  
7 crew. They handle those on a regular basis.

8 Then you have the non-fatal shooting team.  
9 Those members usually handle all non-fatal shootings and  
10 they handle gun cases. It depends on what type of case  
11 comes in, what criteria it meets, and what unit is going  
12 to handle it.

13 Q And I don't want to cut you off, but I want you to  
14 specifically tell me what goes into your determination in  
15 assigning gun cases?

16 A Usually, the gun cases are all assigned to the non-fatal  
17 shooting team because in a lot of cases we have non-fatal  
18 shootings where we can't find the gun and we find the gun  
19 and we find out that this gun is similar. They run the  
20 gun and it may come back linking it to the case that  
21 we're investigating, so usually people in the non-fatal  
22 shooting squad, they handle all gun cases.

23 Q And to your recollection, how many gun cases did you  
24 submit when Shanda Starks was the lieutenant of the PDU?

25 A I can't tell you. Hundreds probably.

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1 Q Okay. And how many gun cases do you believe you  
2 recommended under the direction of Lieutenant McCord?

3 A How many cases you say I recommended?

4 Q Yeah.

5 A What do you mean by "recommended?"

6 Q Well, I guess actually assigned out. I'm sorry. I used  
7 the wrong terminology. How many cases do you believe you  
8 assigned out to your detectives while you were  
9 accountable to Lieutenant McCord?

10 A I would say maybe a 100 or more. I think that would be  
11 something that you would have to, you know, she would  
12 probably have a better record of it than I would, but it  
13 was quite a few.

14 Q Are those cases that ultimately get assigned or not  
15 assigned, they get sent up to the reign of the county  
16 prosecutor's office, do you have to sign a warrant before  
17 you send those cases out?

18 A Do I sign a warrant?

19 Q No. Must a warrant be signed when you send them to the  
20 Wayne County Prosecutor's Office?

21 A A warrant is signed by the OIC of the case and it's  
22 submitted. The prosecutor reads over the case and they  
23 decide if they're going to sign off on it or not.

24 Q Did you sign any of those warrants in any of the related  
25 gun cases?

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1 A Not only did I assign some, I was the officer-in-charge  
2 of many of them as well. I participated. I didn't do  
3 anything - I didn't ask the detectives to do anything  
4 that I wouldn't do myself. I helped them in the PDU. I  
5 took cases. I investigated cases. I went on shootings.  
6 I did everything possible to get the work flow going and  
7 continuous. I didn't just here, do this, here, just do  
8 that. I participated as well.

9 Q And so in the cases that you signed warrants on, is it  
10 fair to say that those cases didn't have any probable  
11 cause issues?

12 A No, that's not fair to say at all because I would sign a  
13 warrant if it didn't have any probable cause. Would I  
14 sign a warrant like that, no. Sometimes I'll even  
15 contact the Prosecutor's Office before I would even  
16 submit a warrant to tell the prosecutor to go over it and  
17 say, "Hey, this is kind of iffy. I'm not sure about  
18 this. It could be" --

19 Q Mr. Ball, I don't mean to stop you but you're having some  
20 kind of technical issue and I don't know if it's just me  
21 who's having difficult hearing, but you're starting to  
22 have like a slow drawl sound, so I'll give you a chance  
23 to reset here. I'm sorry for interrupting you.

24 A You're fine. Can everybody else hear?

25 MR. SKLAR: I got you.

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1 COURT REPORTER: Sometimes, too, it's good to  
2 just go out and then sign back in. You get a better  
3 connection. That's another possibility. I've been  
4 having problems since we came back on the record. Sounds  
5 very mumbley to me.

6 MR. SKLAR: Marcellus, you may want to get  
7 closer to the mic and I'm the same way.

8 THE WITNESS: I'm in the hills up here too and  
9 I probably have a bad reception down here, but I got the  
10 mic right at my mouth now.

11 MR. SKLAR: All right. You've got better  
12 weather. That bothers me.

13 THE WITNESS: It is sunny and 78 right now.

14 Q (By Mr. Smith) We're all good, Mr. Ball? You can hear  
15 me, I can hear you?

16 A I can hear you very well, sir.

17 Q All right.

18 MR. SMITH: Madame Court Reporter, you can hear  
19 everybody?

20 COURT REPORTER: Yes, I can. Thank you.

21 Q (By Mr. Smith) So I didn't catch your answer. I'll give  
22 the question, Mr. Ball. In cases in which you signed the  
23 warrants, would it be fair to say that there was probable  
24 cause for the crime that the Defendant, the particular  
25 Defendant was being accused of?



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1       A   Any cases that I sign, I believe that I have probable  
2           cause.  Some cases, like I said, they required me to call  
3           the Prosecutor's Office and talk to them before I  
4           submitted a warrant because circumstances were sketchy.  
5           It was right on the borderline and a lot of those cases I  
6           would not submit them and a lot of the cases I was told  
7           to submit the case and let the Prosecutor's Office figure  
8           it out.

9       Q   But help me understand something, Mr. Ball.  You're  
10          signing your name to the warrant?

11      A   Yes, sir.

12      Q   Okay.  And so is it fair to say that if you're signing  
13          your name to the warrant you're on the hook in a sense  
14          for what that warrant speaks to, so are you telling me  
15          you would sign a warrant where you're not personally  
16          certain that there is probable cause for the crime that  
17          the Defendant is being accused of?

18      A   No, that's not what I'm saying.  I'm saying that there  
19          are cases where the probable cause was not as clear as  
20          you would like it to be.  There is somewhat probable  
21          cause and that's when I would contact the prosecutor and  
22          tell them, "Hey, this is what I got."

23                   It could go either way.  I'm not saying that it  
24          is probable cause.  I'm not saying that it isn't.  I'm  
25          saying this is what we have and it could be that it's

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1 good. It's on the borderline and at that time the  
2 prosecutor will tell me, "Well, I can't tell you what  
3 probable cause is. You can either submit it or you can  
4 hold it and investigate it further," and in a lot of  
5 those cases, I was informed to submit the warrant and let  
6 the Prosecutor's Office figure it out, sort it out.

7 Q We'll come back to that point in one second, but here's  
8 my question. Is it Department protocol to call the  
9 Prosecutor's Office and inquire about probable cause for  
10 a case?

11 A It's not against protocol. We contact the prosecutors  
12 every day. When you're doing shootings, you have a  
13 community prosecutor. That community prosecutor is  
14 assigned to that shooting and that community prosecutor  
15 is who you contact on a regular basis. That community  
16 prosecutor is the one you call to get your search  
17 warrants signed. That community prosecutor is called  
18 when you want to go over cases. That community  
19 prosecutor in somewhat becomes your partner as far as  
20 when it comes to related to these cases.

21 Q Let me rephrase it this way because you've raised a very  
22 interesting issue. Now, would you agree with me that  
23 prosecutors, their purpose is to take a case in which  
24 they believe a crime has been committed and prosecute  
25 that case and potentially seek a term of imprisonment of

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1           that particular Defendant?

2                       MR. SKLAR: I'll object to form and foundation.  
3           Go ahead and answer.

4                       THE WITNESS: I can't speculate on that. I  
5           don't know what the prosecutor's frame of mind is, what  
6           they're concerned with. All I know is that I submit it  
7           to them. They go over the cases and they determine if  
8           they're going to proceed.

9       Q    (By Mr. Smith) Well, let me rephrase it this way. I'm  
10       sorry. I don't want to cut you off. You can continue. I  
11       don't want to cut you off.

12       A    I was going to say, you know, sometimes when the  
13       prosecutor gets a warrant that we submit, they will send  
14       it back and it's called adjourned. They will send the  
15       warrant back and they will have a bunch of items on there  
16       that you need to do A, B, C, D, E, and then you can  
17       resubmit it. If you get all these A, B, C, D, and E  
18       done, then I'll review it and then I'll make a  
19       determination if the warrant is going to proceed or not.

20       Q    Understood.

21       A    We get a lot of adjournments.

22       Q    What do you understand the Wayne County Prosecutor's job  
23       to be? What do you understand the role of a prosecutor  
24       in a criminal justice system?

25       A    To pursue justice.

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1 Q And does that include prosecuting criminals?

2 A I'm sure it does, yes.

3 Q Would you agree that it includes seeking potential jail  
4 time for Defendants that they can prove committed the  
5 crime?

6 A I'm not sure I can say that it seeks jail time because  
7 every case is handled on an individual basis. Every  
8 prisoner or Defendant is handled on an individual basis  
9 and, you know, the Judge determines the time, not me or  
10 the prosecutor.

11 Q That said, do you believe it's a problem to go to the  
12 prosecutors and say, "Hey, do I have probable cause to  
13 give you this case to prosecute this Defendant?"

14 A That's not what I'm doing. I'm going over to the  
15 prosecutor and I'm discussing the case because there are  
16 certain areas which are sketchy to me and I'm trying to  
17 get clarity from them because they prosecute these cases  
18 and what they are doing, they will tell me to - I'll  
19 submit it. They'll go over it and then they'll adjourn  
20 it and if that person is in custody, they'll release the  
21 prisoner and once we go over what the prosecutor  
22 requested, then it's determined if a warrant will be  
23 issued which is called a not-in-custody warrant for that  
24 person.

25 Q The question I have for you Mr. Ball is who told you it

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1 was acceptable protocol to take your case to the Wayne  
2 County Prosecutor's Office and ask if your case has the  
3 valid probable cause?

4 A No one told me that. This goes on an individual basis.  
5 I've been doing this for 25 years. I've always presented  
6 my cases to the prosecutor because I'm trying to seek  
7 justice and I'm trying to avoid having people arrested  
8 and going to jail who haven't done anything wrong.  
9 That's what I'm trying to do. I'm trying to get as much  
10 clarity, as much cohesiveness between myself and the  
11 prosecutor as possible because I don't want to submit bad  
12 warrants. I'm not in the practice of submitting bad  
13 warrants. I'm here to do the best job that I can do and  
14 the prosecutor, like I said, they work with us, not  
15 against us.

16 Q Well, did anyone in your chain of command authorize you  
17 to go to the Wayne County Prosecutor's Office and talk  
18 about whether you have probable cause for your cases?

19 A No, and no one didn't authorize it either.

20 Q Did Lieutenant McCord ever speak to you about going to  
21 the Wayne County Prosecutor to speak about probable cause  
22 in your cases?

23 A Not to my knowledge. I think Lieutenant McCord would  
24 want us to have probable cause.

25 Q And was it documented in your case notes that you spoke

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1 to the Wayne County Prosecutor's Office about probable  
2 cause for your individual cases that you worked on?

3 A Probably so because that prosecutor would get the  
4 warrant.

5 Q And who are the names of the Wayne County Prosecutors  
6 that you would call or speak to about probable cause?

7 A It depends. They had a high turnover rate, but Lori  
8 Mireless and Kim Miles were two of the ones that I spoke  
9 to on a regular basis.

10 COURT REPORTER: The second name?

11 THE WITNESS: Kim Miles; M-i-l-e-s. I think  
12 she was the supervisor.

13 Q (By Mr. Smith) I'm sorry. I want to make sure. You  
14 said Kim Miles was a supervisor?

15 A Yes. That's my understanding.

16 Q So Mr. Ball, you went to Wayne County Prosecutors to ask  
17 questions about probable cause, but help me here. You  
18 have a chain of command which includes your Lieutenant  
19 Donna McCord, which includes your commander, captain, I'm  
20 sorry, Ian Severy, which included Commander Tiffany  
21 Stewart?

22 A Yes.

23 Q Which included DC Fitzgerald and to some regard DC Marlon  
24 Wilson. Why not go to any of them within that chain of  
25 command and say, "Hey, do you think I have probable cause

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1 on this case to send it to the Wayne County Prosecutor's  
2 Office?"

3 A For one thing, it's my responsibility, not theirs.  
4 That's why. It's my responsibility. I would talk to  
5 Lieutenant McCord because she was my immediate  
6 supervisor, but I would not circumsede (sic) her  
7 authority and go to the captain or the commander. That  
8 would be for Lieutenant McCord to decide and to my  
9 knowledge, there may have been causes where she said,  
10 "Okay, let's go talk to the commander or let's go talk to  
11 the captain," but I would try to minimize that because it  
12 was my job to make sure that each case was handled on an  
13 individual basis and that it was handled meeting all the  
14 standards for a warrant to be approved.

15 Q And did you tell Lieutenant McCord - each time before you  
16 went to the Wayne County Prosecutors, did you mention any  
17 of that to Lieutenant McCord?

18 A No, and let's get one thing clear. I did not personally  
19 go down to the Wayne County Prosecutor's Office. I was  
20 speaking to them over the phone most of the time because  
21 of COVID. They were closed and I would speak with them  
22 over the phone.

23 Q To your knowledge, did any of the investigators that you  
24 had supervision over directly call the Wayne County  
25 Prosecutor's Office to inquire about probable cause for

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1           their cases?

2                       MR. SKLAR: Object to form and foundation. Go  
3           ahead. You can answer.

4                       THE WITNESS: Some would, I'm sure. I know  
5           they did.

6       Q    (By Mr. Smith) Which detectives did that? I'm sorry.  
7           Which investigators did that, Mr. Ball? Give me their  
8           names?

9       A    I can't give you any individual names. I'm just speaking  
10          broadly, but I know that detectives were whatever  
11          detective unit I had worked at, it was not discouraged  
12          for them to call prosecutors. After all, you're trying  
13          to build the best case possible, so I had no problem with  
14          officers talking to a prosecutor and we have really  
15          talked to the prosecutors especially on non-fatal  
16          shootings. That's where we would really talk to them at.

17                 A lot of the cases didn't require us to talk to  
18          the prosecutor. A lot of gun cases and a lot of non-  
19          fatal shooting cases, it did require us to talk to the  
20          prosecutor.

21       Q    Something you said earlier I want to circle back to. You  
22          talked about you were told you had to sign these  
23          warrants. You said that in some form or fashion. Who  
24          told you you had to sign these warrants?

25       A    Oh, I didn't say I was told that I had to. That's not



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1 true. If I said that, I'll stand corrected. No one told  
2 me that I had to sign a warrant. My job was to review  
3 the warrants and then I would sign. I can say Lieutenant  
4 McCord has never came to me and said, "You better sign  
5 this. You got to sign this." That has never happened.

6 Q Has anyone else in the Department pressured you to sign a  
7 warrant that you weren't fully on board with?

8 A No. Not to my knowledge, no.

9 Q Now Mr. Ball, how many CCW motor vehicle cases with two  
10 or more occupants did you assign to your recollection  
11 from January of 2021 to about May 27th of 2021?

12 A Without the records, I can't tell you. I can speculate.  
13 Maybe 20 or more, but I don't have the records in front  
14 of me, so I couldn't tell you that for sure.

15 Q And do you know how many CCW arrests were made in that  
16 same timeframe I just gave you? What do you recall?

17 A I don't recall.

18 Q Do you have an estimate?

19 A No. There were several.

20 Q Do you happen to recall for that same timeframe how many  
21 CCW arrests with one person in the vehicle were made that  
22 came through your PDU unit?

23 A I don't recall, sir.

24 Q And of those cases where there were two or more occupants  
25 in the vehicle, do you recall how many were found upon

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1           your investigation and PDU's investigation, how many  
2           cases were found to have some error made, to have been  
3           made by the arresting officer?

4       A    An error as to --

5                       MR. SKLAR: I'll object to form and foundation.

6       Q    (By Mr. Smith) I'm sorry. I couldn't hear your answer,  
7           Mr. Ball.

8                       MR. SKLAR: I objected as to form and  
9           foundation. If you have an answer, Marcellus, you can  
10          certainly give it.

11                      THE WITNESS: An error in regards to what?

12       Q    (By Mr. Smith) Some defect - well, let me just rephrase  
13           it so I can give you a timeframe. The timeframe I'm  
14           talking of is January 2021 to May 27, 2021. How many  
15           cases, CCW cases in motor vehicles where there's two or  
16           more occupants, in that timeframe did you find or assign  
17           out where you ultimately found or your team found that  
18           there was some sort of defect in the case whether it be  
19           some Constitutional violation, some Departmental  
20           violation, something of that sort?

21       A    I can't give you a number, but I can tell you that it  
22           happened and I can tell you that several officers in the  
23           detective unit would bring some of those cases to my  
24           attention because they did not feel comfortable typing  
25           them.

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1 Q What were the name of those officers?

2 A Let me see. Kuhar. He was one. Panackia was one.

3 Q And for the record, I don't want to interrupt you.

4 You're talking about Detective Jason Kuhar?

5 A Yes.

6 Q What was the other name you gave, Mr. Ball?

7 A He's a sergeant now. Michael Panackia; P-a-n-a-c-k-i-a,  
8 Markala Moore. Police Officer Markala Moore, Police  
9 Officer Felesha Gambril, Detective Eric Carthan.

10 Q What was the last name for Eric, Mr. Ball?

11 A Carthan; C-a-r-t-h-a-n. At one point in time, all of  
12 those officers expressed concerns to me about gun  
13 arrests.

14 Q Okay. In those cases that they had concerns about, were  
15 those detainees? Were those detainees released because  
16 there was no probable cause?

17 A In some cases they were.

18 Q How many cases were they released where there was no  
19 probable cause?

20 MR. SKLAR: Object to form and foundation but  
21 give an answer if you have one.

22 Q (By Mr. Smith) To your recollection.

23 MR. SKLAR: Object to form and foundation, but  
24 give an answer if you have one.

25 THE WITNESS: I don't have an answer. I

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1           couldn't tell you for sure. You would have to check the  
2           arrest book for that and the warrant book.

3       Q    (By Mr. Smith) Mr. Ball, I am going to pull up  
4           Defendants' Exhibit 2 which is your Summons and  
5           Complaint.

6       A    Okay.

7                       MR. SMITH: Is this a good size for you to  
8           review this Mr. Ball and Brother Counsel?

9                       THE WITNESS: Yes, sir.

10      Q    (By Mr. Smith) Okay. So let's go through the  
11           allegations in your Complaint. Now, we've already  
12           discussed about you being a veteran of the City of  
13           Detroit.

14      A    Yes.

15      Q    I want you to look at No. 11.

16      A    Yes, sir.

17      Q    Can you read that for me? I'll give you a chance to read  
18           it.

19      A    Do you want me to read it out loud or to myself?

20      Q    No. You can read it to yourself.

21      A    Okay. Yes.

22      Q    Okay. The first question I have, you've had an  
23           opportunity before today to review this Complaint?

24      A    Yes, I did.

25      Q    Okay. And so senior sergeant. Is senior sergeant a

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1 rank?

2 A Senior sergeant is not a rank, but it's recognized if the  
3 lieutenant is gone.

4 Q Okay. And was there any other sergeants in the unit with  
5 you?

6 A Yes.

7 Q Okay. And so do you mean you were the senior sergeant  
8 amongst the sergeants assigned to the PDU?

9 A Yes. I was the only sergeant in the PDU that was  
10 actually assigned to the Detective Unit. The other  
11 sergeants that worked in the PDU did not work for the  
12 Detective Unit. They were assigned in, for lack of a  
13 better term, as a fill in to assist me in the daily  
14 duties of the precinct detective. They were assigned to  
15 the 10th Precinct. I was never assigned to the 10th  
16 Precinct. They were.

17 Q Okay. And I want you to read allegation 12 and  
18 allegation 13 of your Complaint.

19 A Yes, sir.

20 Q Okay. So Special Operations Unit, what do they do?

21 A They are a specialized unit. They usually handle high  
22 crime. They investigate serious crimes. They respond to  
23 all serious runs. They investigate, like I said, all,  
24 you know, serious crimes and that's their main duty.  
25 It's a specialized unit and a lot of times they are out

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1 of service so they can concentrate in high crime areas  
2 and address crime issues in those areas.

3 Q Okay. And the officers in SOU, are they typically  
4 regular patrol officers or that is a special assigned  
5 unit?

6 A No. It's an assigned unit within the precinct and those  
7 officers usually in a perfect situation, those would be  
8 veteran officers with a lot of experience and who have  
9 handled different types of cases, but with the manpower  
10 the way it is now, you have officers with little or no  
11 experience working those units which causes a problem  
12 because they don't have anybody to teach them and to show  
13 them --

14 Q Now, is the - I'm sorry. I didn't mean to cut you off.

15 A No, you go ahead. I was just going to say in some cases  
16 you might have two officers working in the Special  
17 Operations Unit who are only separated by months in  
18 seniority and they both have a total of two years or  
19 less.

20 Q Now, is the SOU set up in similar fashion to PDU where  
21 there is a chain of command made up of sergeants,  
22 lieutenants?

23 A They have a sergeant. They have a lieutenant.

24 Q And once we get to the lieutenant level, who do those  
25 lieutenants in SOU, who is their direct report?

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1 A I believe the captain and the commander.

2 Q And what captain are you talking about or speaking of?

3 A The captain of the 10th Precinct. That would be whoever  
4 the captain is. In this case, it would have been Captain  
5 Severy.

6 Q Okay. So SOU officers, you have the SOU officer who  
7 answers to whoever the particular sergeant is, who  
8 answers to whoever that particular lieutenant was, who  
9 answers to Captain Severy, who answers to Commander  
10 Stewart. Does that sound about right? Did I get that  
11 right?

12 A Yes, and in some cases they might talk to Captain Severy  
13 or come in and talk to Lieutenant McCord about certain  
14 cases of theirs.

15 Q But you raise a good point. To be clear, Lieutenant  
16 McCord does not have span of control over the SOU  
17 officers, does she?

18 A She has not span of control, but she has rank.

19 Q Now, in regards to allegation 13, you say:

20 "SOU utilizes aggressive, "proactive" police  
21 tactics, including pretextual traffic stops, to  
22 justify otherwise unlawful searches and seizures of  
23 citizens and their personal property."

24 So what tactics are you speaking of in particular, Mr.  
25 Ball?

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1 A Okay. I can tell you, for instance, walking in the  
2 street where a sidewalk is provided. That would be one.  
3 Tinted windows. What else?

4 Q Go ahead. I'm going to let you finish.

5 A And I'm not saying that tinted windows is not a crime  
6 itself and I'm not saying that walking in the street  
7 where a sidewalk is provided is not a crime in itself or,  
8 you know, seatbelts which is a crime. I'm not saying  
9 that. None of these are crimes. I'm just saying that I  
10 had noticed that a lot of these had been used to stop and  
11 investigate and in many cases the officers did not even  
12 give the person a citation for the stop which they  
13 initially stopped the person for and many times they had  
14 to be instructed that if you're stopping this person for  
15 A, B, C, or D, then you have to give them - where's the  
16 ticket at? Where's your probable cause? You said you  
17 stopped them for, you know, tinted windows. Where's the  
18 ticket for tinted windows, you know. Those are things  
19 that was going on.

20 Q So help me understand. You've pointed to me tinted  
21 windows, walking on the sidewalk --

22 A No. Walking in the street where a sidewalk is provided.

23 Q Correct. Walking in the street where a sidewalk is  
24 provided. As it relates to these offenses --

25 A Oh, another one would be I smelled a strong odor of



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1 marijuana.

2 Q Okay. And I'll add that to the list. Can you describe  
3 to me in your 35 years of policing, can you articulate  
4 for me what you understand reasonable suspicion to be?

5 A Reasonable suspicion? It depends on each case.

6 Reasonable suspicion. It could be, you know, you suspect  
7 that a crime was about to take place and the persons that  
8 you're investigating, you know, it's more likely than not  
9 that they are participants in it. It all depends. It  
10 all depends. I can't sit here and give you a textbook,  
11 you know, definition, but that's not appropriate because  
12 it all depends on a case-by-case basis.

13 Q Okay. Here. I'm going to pull up Exhibit 8 really  
14 quickly because I want you to see what DPD defines  
15 reasonable suspension as. I'm going to share my screen.

16 A Yes, sir.

17 Q Can you see that, Mr. Ball?

18 A Yes, sir.

19 Q And so you know, we're under Arrests. The directive we  
20 looked at earlier for Arrests, Exhibit 8, and under  
21 202.1-3.6, Reasonable Suspicion. Can you read that for  
22 me?

23 A Yes. (Reading):

24 "The facts and circumstances that existed at  
25 the time of the stop that would lead a reasonable

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1 officer to believe that criminal activity was (or  
2 had been or was about to be) afoot."

3 Q Okay. So the Department articulates for its sworn  
4 officers what reasonable suspicion is. Is that fair to  
5 say, Mr. Ball?

6 MR. SKLAR: I'll object to form and foundation.  
7 You can answer.

8 THE WITNESS: Okay. Yes, sir.

9 Q (By Mr. Smith) Okay. In the examples you just presented  
10 to me, would you agree that tinted windows is an offense?  
11 I believe it's under the City Ordinances. Is that an  
12 offense under the City Ordinances?

13 A I believe so, yes, but there's a lot of factors. You  
14 have to determine the amount of tint, the darkness of the  
15 tint. There's a lot of factors that go into it. You  
16 just can't go and arrest a guy because he's got or, you  
17 know, investigate him because he has tinted windows. It  
18 has to be somewhat --

19 Q Additionally, the offense you pointed out about walking  
20 in the street when a sidewalk is present, do you  
21 understand that to be a criminal offense or at a minimum,  
22 a misdemeanor offense?

23 A It all depends. A lot of people walk in the street  
24 because they have stray dogs out there.

25 Q To be clear, I'm not asking about the reason why they're

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1 in the street. I'm just talking about the letter of the  
2 law because you brought it up and so I'm just asking.

3 A Yeah. You brought up --

4 Q Do you have an understanding - let me finish. I'm going  
5 to let you go. Let me finish my question. You seem to  
6 understand that that is some kind of an illegal act.

7 MR. SKLAR: I'll object to form and foundation.

8 Q (By Mr. Smith) And I ask that because this is the  
9 example you gave to me.

10 A Okay. I was trying to give you an example. It might be  
11 an illegal act in itself, a ticketable offense, but if  
12 you're walking down the street and people have loose dogs  
13 out, so your other alternative is to walk down the middle  
14 of the street to protect yourself, that's not an offense  
15 that I would investigate somebody for. I would rather  
16 investigate the people who had this dog outside who's  
17 making it impossible for people and impeding people from  
18 walking down the sidewalk.

19 Q Hold that thought because we're going to come back to  
20 that. Mr. Ball, I used to work over in 36th District  
21 Court as a City attorney that handled misdemeanor  
22 offenses.

23 A Okay.

24 Q There was a ticket that always I would see come across  
25 every now and again. Do you remember those little

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1 Christmas trees, the air fresheners that people would  
2 hang in their rear-view mirror?

3 A Yes, I vaguely remember that.

4 Q In your 35 years of experience, did you know that you can  
5 be written an Obstruction of View ticket for having those  
6 little Christmas tree mirrors hanging on your rear-view  
7 mirror? Have you ever heard that before?

8 A Yes, sir.

9 Q Okay. So we both agree on that?

10 A Yes, sir.

11 Q Would you write that kind of ticket to a citizen of  
12 Detroit?

13 A Would I write it?

14 Q Would you issue a ticket to someone for hanging a  
15 Christmas tree air freshener in their rear-view mirror  
16 under the criminal offense of Obstructing View?

17 A I can't tell you that I would write it. You also have  
18 the opportunity to advise and release and tell them to  
19 remove it, so I have options. You don't have to arrest  
20 or ticket everyone for every offense that you find. You  
21 have that right to advise and release. You get to be  
22 objective.

23 Q Would you agree what you just described to me is called  
24 discretion?

25 A Yes. We all have discretion. Each police officer has

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1 discretion.

2 Q So, for instance, if I'm pulled over by an officer for  
3 going 15 miles per hour over the speed limit, is it  
4 within the officer's discretion to give me a warning and  
5 release me or must they write me a ticket for going 15  
6 miles per hour over the speed limit?

7 A I think that's on a case-by-case basis. You have to talk  
8 to the arresting officer or investigating officer. I  
9 can't tell you. I've hardly ever written a speeding  
10 ticket in my entire career, but I know that officers that  
11 I know who are traffic officers, always known them to  
12 issue those tickets.

13 Q So it's fair to say, we're going to use the same analogy  
14 I just gave to you about the speeding ticket. We're  
15 going to apply this to what you just talked about the  
16 tinted window, the walking in the street when a sidewalk  
17 is available, and I want to ask you this question. Just  
18 because you wouldn't write a ticket for those offenses,  
19 that doesn't necessarily make what the officers who do  
20 write those tickets, that doesn't make what they're doing  
21 illegal, does it?

22 A If they wrote a ticket for those offenses?

23 Q Yes. It doesn't make it illegal, and I'll frame it this  
24 way. You mentioned the lack of probable cause and some  
25 other things. That doesn't make them lack probable cause

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1 just because they would issue a ticket and you would not,  
2 would it?

3 A No. It's discretionary.

4 Q I'm going to share screen here and keep the Complaint up.  
5 So it sounds like these and I don't want to put words in  
6 your mouth, but thus far the offenses that you described  
7 as aggressive, proactive police tactics, including  
8 pretextual traffic stops, sounds like officers exercising  
9 discretion and that they may handle a situation  
10 differently from you?

11 MR. SKLAR: I'll object to form and foundation.  
12 You can answer.

13 THE WITNESS: Okay. Looking at this, that's  
14 fine, but when you use these kinds of stops to get  
15 everybody out of the car to investigate them, to search  
16 the entire car, to go into areas of the car that you  
17 would not normally have any right to because it is a  
18 ticketable offense and you're not impounding the car and  
19 you're looking for probable cause. You're looking for  
20 guns. When you use these things as a pretext stop to  
21 find those things, then that's when we have a problem and  
22 that's what's been happening.

23 Q (By Mr. Smith) What you just said to me, it sounds like  
24 this to me, Mr. Ball. What you said is a criminal  
25 offense has been committed. The officer exercised his

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1 discretion to enforce that criminal offense which led to  
2 his ability to gain access to a car where he found other  
3 criminal offenses and if what I'm hearing correctly is,  
4 you don't like the initial offense that he enforced that  
5 allowed him into that car. That's discretion. That does  
6 not make it, what they did illegal. Do you see that  
7 distinction?

8 MR. SKLAR: Object to form and foundation  
9 again. I don't understand the question, but go ahead.

10 THE WITNESS: And first of all, you said, "I  
11 don't like it." I don't understand what you mean by what  
12 I don't like. I'm not here to like or anything. I'm  
13 here to investigate each case on its own merits and I'm  
14 not here to say I don't like this or I don't like that.  
15 I'm here to investigate each case and when you see these  
16 cases come in on a regular basis and I guess for lack of  
17 a term they use it as a boilerplate arrest where  
18 everything is the same except for the persons' names,  
19 then you become suspicious. That's where you have the  
20 problem.

21 Q So Mr. Ball - I'm sorry, sir. Go ahead. I'm sorry. I  
22 didn't mean to interrupt you.

23 A No, go ahead. I'm finished.

24 Q So what do you under "pretextual" to mean?

25 A Just what I was saying. When you use these walking down

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1 the street when a sidewalk is provided. What else? I  
2 smelled strong odor of marijuana coming from the car.  
3 You know, those are pretextual stops, too. A lot of  
4 these become pretextual stops and it's known and the  
5 officers working these specialized units, they are  
6 looking for ways to get into a car to search them.  
7 That's their job. They're working on stats and numbers.  
8 They're out there to get guns. They're out there to  
9 arrest the bad, sort of bad so-to-speak criminals out  
10 there.

11 Q But Mr. Ball, can you say that those stops are  
12 definitively without probable cause or reasonable  
13 suspicion?

14 MR. SKLAR: I'll object to form and foundation.  
15 You can answer if you have one.

16 THE WITNESS: I'm saying that those stops have  
17 - let me try to say it, have increased dramatically and  
18 they're becoming more common.

19 Q (By Mr. Smith) That's not my question, Mr. Ball. My  
20 question is not about the number of cases of that are  
21 increasing. Okay. They increase as long as you have  
22 probable cause and reasonable suspicion to make the stop.  
23 My question to you is, again, can you definitively say  
24 that those stops that you are saying that the SOU made  
25 which were pretextual traffic stops were without



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1 reasonable suspicion to make the stop or probable stop to  
2 make the stop?

3 MR. SKLAR: I'll object to form and foundation.  
4 Again, I think you're referring to every stop that he's  
5 reviewed. You haven't provided him one document of a  
6 stop, but you can answer Mr. Ball to the extent you know.

7 THE WITNESS: I don't have an answer for that,  
8 sir. Like I say, each case is reviewed on its individual  
9 merit. I can't sit here and tell you that all cases are.  
10 I can only tell you about the ones that I investigate on  
11 on a day-to-day. I can't group them all together. I can  
12 just tell you that each case is investigated on its own  
13 merit individually and then decisions are made from  
14 there, but if you get these arrests on a daily basis and  
15 the circumstances are always the same, that raises a red  
16 flag and that's where you have to investigate a little  
17 bit more because even the Judges are noticing in court.  
18 They bring it up.

19 Q (By Mr. Smith) Would it be fair to say that if the  
20 initial reason why you stop a vehicle, there is probable  
21 cause for reasonable suspicion for the initial stop, say  
22 I pull you over for a broken tail light.

23 A Yes, sir.

24 Q If there's adequate probable cause of reasonable  
25 suspicion to make that stop, then would the unlawful,

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1 well, let me give use a different example. Maybe a broken  
2 tail light is not the best. I pull you over and you  
3 don't have a Driver's License. I pull you over for  
4 speeding. You don't have a Driver's License.

5 A Yes, sir.

6 Q If I have adequate probable cause and reasonable  
7 suspicion and I search the car subject to your arrest,  
8 would anything I find in the car in that plain view, that  
9 would be fair game, would it not?

10 MR. SKLAR: I'll object to form and foundation.  
11 It assumes facts not in evidence and calls for a  
12 hypothetical. To the extent you have an answer Mr. Ball,  
13 feel free to give one.

14 THE WITNESS: I'm kind of lost on that. You  
15 said you're arresting somebody, incident to an arrest? I  
16 mean --

17 Q (By Mr. Smith) I'll rephrase, Mr. Ball. I don't want to  
18 cut you off. I'll rephrase. I'll use the example you  
19 gave for the tinted windows. If an officer pulls someone  
20 over for having tinted windows in violation of the law  
21 and I clearly have reasonable suspicion that the crime  
22 has been committed, can that lead to other criminal, me  
23 finding out about other criminal offenses? I'm talking  
24 about me as an officer? It would be lawful to charge for  
25 those other crimes, would it not?

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1 MR. SKLAR: Let me object to form and  
2 foundation again. The same objection. I'm not sure if  
3 you're assuming there's reasonable suspicion for the stop  
4 in your question or if you're assuming there's probable  
5 cause for a subject to be searched based on your  
6 question. I think that's a problem.

7 MR. SMITH: I'll phrase it better for you,  
8 Brother Counsel. I gotcha. I'll phrase it better for  
9 you.

10 Q (By Mr. Smith) Mr. Ball, we'll assume that there's  
11 probable cause for the stop. We're going to assume that  
12 there's probable cause for the initial stop, but as a  
13 result of that stop, the officer finds out about other  
14 criminal activity. Now, based on there being probable  
15 cause for the initial stop, that officer could  
16 investigate and enforce the law as it relates to the  
17 other criminal offenses he finds after the initial reason  
18 he stopped that person. Would that be fair to say?

19 A It depends on how he found out about these other criminal  
20 offenses.

21 Q The allegation in 13 - we'll go to 14. I'll give you a  
22 chance to read that one.

23 A Yes, sir.

24 Q Okay. What is unusually high? What does that mean to  
25 you?

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1       A    They're spikes. You know, you might go along and you'll  
2           have maybe three or four arrests and then all of a sudden  
3           you'll notice that those three or four arrests have  
4           become ten arrests and even though you ask questions and  
5           then you look at the arrest and they all, like I said  
6           before, have the same similar circumstances. The only  
7           thing that's changed is the type of vehicle and the names  
8           on the Defendants.

9       Q    So let's attempt to establish a baseline period. Over  
10          what timespan did you note this increase in arrests?

11      A    This wasn't a particular timespan. It was something that  
12          I had been noticing for a while.

13      Q    What is a while Mr. Ball, time-wise. What is a while?

14      A    Maybe almost a year or so and it just got progressively  
15          worse.

16      Q    Okay. So you say for over a year you noticed these  
17          numbers, and I don't want to put words in your mouth, so  
18          I want to make sure I'm clear on this. So for over a  
19          year, you noticed this number of CCW cases alleged in  
20          your Complaint, you saw those numbers increase?

21      A    I'm not saying over a year. Approximately a year, but  
22          you have to understand when things are - I'm not the only  
23          one who noticed this. The other officers who I indicated  
24          to you before, they also noticed this and they brought it  
25          to my attention. It wasn't like I was the only one

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1 sitting there noticing this.

2 Q Respectfully, Mr. Ball, I'm just concerned with you  
3 because you're the only one who's filed suit to my  
4 knowledge and so I want to establish the timeframe that  
5 we're talking about so I can insist and know what you  
6 understand the baseline to be for when these cases  
7 started to increase. Was it weeks, months? Thus far,  
8 you said approximately a year. Again, to your  
9 recollection, it was approximately a year?

10 A To my recollection, I don't want to be pinpointed to a  
11 certain amount of time, but I did notice an increase and  
12 I did notice the circumstances of the arrests and I did  
13 get complaints from other officers as well.

14 Q And to be clear, I'm not looking in your response for  
15 scientific data down to the date and time. I'm just  
16 trying to get a general understanding of the timeframe  
17 you saw this increase occur, so we're at approximately a  
18 year. Okay. So in that year timeframe, does that  
19 predate the arrival of Lieutenant McCord to the unit?

20 A I couldn't answer that. I don't exactly recall when  
21 Lieutenant McCord came to the unit and I'm not going to  
22 sit here and tell you that arrests like this hadn't been  
23 made prior to her getting there.

24 Q Did you notice this increase during the time that  
25 Lieutenant Starks was there?

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1       A     I'm not going to even tell you that there was an increase  
2             like that when Lieutenant Starks was there. She would  
3             have to better answer that question. A lot of things  
4             that happened when Lieutenant Starks was there did not  
5             occur. I mean, a lot of things that happened when  
6             Lieutenant Starks was there, they had nothing to do with  
7             when Lieutenant McCord was there.

8                     A lot of things that happened when Lieutenant  
9             McCord was there never would have happened when  
10            Lieutenant Starks was there. Those are questions that I  
11            can only speculate on. Like I said before, I can only  
12            answer the questions related to each case that I've been  
13            investigating. I can't paint this with a broad brush and  
14            say this is how it was.

15       Q     To be clear Mr. Ball, I'm not asking you to paint with a  
16             broad brush. I'm using the timeframes that Shanda Starks  
17             and Lieutenant McCord were in the unit as markers in  
18             time. Now, I believe your earlier testimony was that  
19             Starks left that unit in 2020 or 2021 which corresponded  
20             with McCord arriving, and so if you tell me that this  
21             happened, you know, during the time Starks was there, I  
22             get a sense that, okay, this happened pre '20, 2021.

23                     If you tell me this happened after McCord was  
24             there, according to your earlier testimony, that sets the  
25             time marker at, you know, late '20, early 2021, so that's

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1           why I'm asking that question. So, again, I'll ask it  
2           just one more time. Did you notice this increase when  
3           Starks was the lieutenant or when McCord was lieutenant?

4       A   Well, you want me to pinpoint to just two people. It's  
5           more than two people involved. You're missing some key  
6           people and I can't tell you that it happened because --

7       Q   No, I'm not talking about involvement. Their involvement  
8           does not matter.

9       A   I think it does because --

10      Q   Who was running the unit when you look back and say,  
11           okay, I'm seeing this uptick in cases, who was the  
12           lieutenant running the PDU?

13      A   It wasn't - I couldn't tell you if it was Lieutenant  
14           Starks or Lieutenant McCord. I can tell you that it was  
15           occurring. It could have occurred under both of their  
16           watches, but it became more prevalent when a certain  
17           number of individuals started coming back there and  
18           working with Lieutenant McCord. It seems like you're  
19           trying to make me pinpoint Lieutenant McCord, but there  
20           were other people involved such as Lieutenant Adams and  
21           Captain Severy.

22      Q   We'll get to that - I'm sorry. Go ahead. We'll get to  
23           them shortly.

24                       MR. SMITH: I'm sorry, Tammy. I don't mean to  
25           step on your record.

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1 Q (By Mr. Smith) I'll let you finish, Mr. Ball.

2 A I'm done. You know, we're just, you know, answering the  
3 questions as best as I can and I'm trying to be fair and  
4 honest.

5 Q And I thank you for that and so I'm just trying to -  
6 because you said approximately a year and if you left the  
7 Department in say sometime what, May, June, July, that  
8 timeframe, when you say approximately a year, that takes  
9 us into 2020, I believe, and so that's why I'm trying to  
10 get a sense of the time, so I'll go with the answer you  
11 initially gave.

12 You said approximately a year, so we'll stick  
13 with that. With that said, who did you report it to  
14 initially? Who's the person you initially reported to  
15 what you saw?

16 A What I saw?

17 Q With the increase in the number of CCW cases?

18 A I spoke to the sergeants and the officers and the Special  
19 Ops Unit. Those are the first persons I believe I went  
20 and spoke to and I asked, "Hey, what's going on with  
21 this?" I spoke to certain - that's when everybody in the  
22 car - see, my main concern was all these arrested,  
23 everybody getting arrested in the car.

24 I'm not saying that everybody stopped was  
25 getting arrested. I'm saying that the number of arrests



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1 had increased dramatically. Say, for instance, you'll  
2 find one car and six people. You have six people who get  
3 arrested. In some cases, five people would get arrested.

4 I remember a case where a young lady was the  
5 only one in the car with a CPL. They let her go and  
6 arrested the five other people in the car. Those are the  
7 kind of cases I'm talking about, sir.

8 Q And I understand that, so the question I have, when you  
9 saw these cases you said (inaudible) very issue, you said  
10 you went to the sergeants and lieutenants of the SOU.

11 A No. I went to the sergeants and officers there.

12 Q I'm sorry. You're correct. Why did you not immediately  
13 tell Lieutenant McCord as your direct supervisor?

14 A Lieutenant McCord already knew because the officers had  
15 been expressing this already in the PDU and Lieutenant  
16 McCord was aware of this. She knew about this because of  
17 the fact that I was discharging all these prisoners and  
18 doing not in custodies. She was aware of this.

19 Q So when you say she was aware, you heard people tell you  
20 in her presence about these matters?

21 A I heard - I can't say what I heard people tell her about  
22 in her presence. I can tell you that the PDU personnel  
23 would say this in her presence. I can't tell you what  
24 other people would say, but the detectives will say  
25 things and they will bring it to my attention and I would

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1 bring it to her attention and as a result, I was told  
2 that I could no longer release a prisoner without  
3 consulting her because of my involvement.

4 I can't say because of my involvement, but I  
5 had started releasing a lot of people because the  
6 probable cause wasn't there and I had my privilege to  
7 release prisoners revoked.

8 Q And so you did that because you believed that was a part  
9 of your job to do that. Correct?

10 A It was my job, sir.

11 Q Okay. And so --

12 A And then it was taken away.

13 Q Let's go back to the Special SOU officers. Who are the  
14 SOU officers and lieutenants that you spoke to?

15 A I don't know all the names because they change. You  
16 know, they had a high turnover rate, but I know that I  
17 talked to Hopegradle. (phonetic). I don't know how to  
18 spell his first name.

19 COURT REPORTER: Hopegradle?

20 THE WITNESS: Yes. I talked to Sergeant  
21 Brannock. I spoke to a brand-new sergeant regarding  
22 this. I spoke to the officers and some of the responses  
23 that I received were quite disturbing. Like I spoke to  
24 one officer, one brand-new sergeant and I said, "Hey,  
25 what's going on with these arrests? You guy are

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1           arresting everybody in the car and you don't have  
2           probable cause," and his response was, "I was ordered to  
3           do what I do. I'm trying to get confirmed."

4       Q    (By Mr. Smith) What is the name of the sergeant you spoke  
5           to?

6       A    He was a brand-new sergeant. Not Hopegradle, but he's  
7           working in the PDU right now. He said it in front of  
8           everybody. He's the most junior sergeant back then  
9           because he was trying to get confirmed and that's what  
10          his answer was. "I'm trying to get confirmed. I was  
11          ordered to do this." Who ordered you to do this?  
12          Lieutenant Adams. Sergeant Brannock, I asked him the  
13          same thing. I said, "What's going on with this?"  
14          "Lieutenant Adams ordered us to do this. Talked to the  
15          Special Ops officers. "Hey, we were ordered by  
16          Lieutenant Adams everybody got to go."

17       Q    Okay. So Mr. Ball, I don't want to put words in your  
18           mouth, sir. I'm going to repeat what I thought I heard  
19           you just say. Did I hear you say that you told the new  
20           sergeant that you guys are making these stops or making  
21           these arrests without probable cause? Did I hear that  
22           correctly?

23       A    I asked him what was going on with all these arrests with  
24           all these people getting arrested in cars when everybody  
25           doesn't have individual probable cause. His response

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1 was, "I'm trying to get confirmed. I was ordered to do  
2 this."

3 Q Again Mr. Ball, given what we just read of the Department  
4 Regulations regarding arrests without probable cause,  
5 clearly the regulations say that's an illegal act which  
6 could subject those officers who participated to criminal  
7 sanction, so did you immediately go and report that up  
8 your chain of command that these criminal stops were  
9 being made?

10 A I spoke to Lieutenant Adams. He was the boss. He's my  
11 boss, so-to-speak. I spoke to him and as a result, I was  
12 basically told that I didn't know what I was doing. We  
13 had an argument about it in front of Sergeant Brannock.  
14 He called me a CRTP sergeant which means a CRTP is  
15 Complainant Refused to Prosecute and he said that was all  
16 I was concerned with and, you know, I took offense to  
17 that because in order to get a CRTP, you have to have a  
18 Defendant acknowledged and in order to - and if you get a  
19 Defendant acknowledged, then you can prepare a warrant  
20 and get a witness detainer from the prosecutor because  
21 the victim has identified the suspect and being the CRTP,  
22 that's just another investigative tool which, you know,  
23 they tried to use against me.

24 Q So I have a question. I'm sorry. Go ahead, Mr. Ball.

25 A I'm done.

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1 Q Well, I have a question. You said he was kind of sort of  
2 your boss. Well, he doesn't have, Lieutenant Adams  
3 didn't have span of control over you, did he?

4 A He's a ranking supervisor.

5 Q No, that's not my question.

6 A Yes.

7 Q Did he have span of control over you?

8 A Span of control as far as a ranking supervisor? We  
9 worked together and he did have. He was my ranking  
10 supervisor. I couldn't go in there and tell him I don't  
11 have to listen to you. You don't have span of control  
12 over me. That was not protocol. I had to listen to him.  
13 He was a supervisor. I was his subordinate.

14 Q Let's just say going hypothetically with you that he was  
15 your supervisor and you see your supervisor as doing  
16 something that goes against the regulations. Who was his  
17 supervisor?

18 A Captain Severy.

19 Q Okay. Did you report that to Severy?

20 A I spoke with Severy and Severy told me the same thing.  
21 He argued with me. I tried to talk to people. Nobody  
22 would listen to me.

23 Q Okay. Who's the next person up the chain of command  
24 regarding these acts did you go to?

25 A That was it.

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1 Q You didn't go to your Commander Stewart about these  
2 violations?

3 A No, I didn't.

4 Q Why not?

5 A Because in my opinion they were all conspiring against me  
6 and that in order for me to get proper relief and help in  
7 this, I had to go outside the command.

8 Q Okay. Before you go outside the command though, this is  
9 kind of where I want to stay before you go outside the  
10 command. Did you reach out to Deputy Chief Fitzgerald  
11 and tell him your concerns?

12 A No.

13 Q Hey, Deputy Chief. They're making stops without probable  
14 cause?

15 A No.

16 Q The deputy chief is in your chain of command. Correct?

17 A He's not in my chain of command. Marlon Wilson is.

18 Q Okay. Prior to being assigned out, prior to going  
19 outside the Department, did you reach out to Deputy Chief  
20 Marlon Wilson and say, "Hey, Deputy Chief, they're making  
21 stops without probable cause?"

22 A I sent a correspondence that you should have received  
23 indicating everything I talked to Marlon Wilson about. I  
24 don't recall it verbatim right now, but I did talk with  
25 Marlon Wilson. I sent him a text message. You should

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1 have that and he understood.

2 Q And I do, but I'm asking --

3 A No, I'm saying he understood.

4 Q My question is very particular.

5 A Okay.

6 Q Prior to you being assigned out. I'm not talking about  
7 what you did after you got assigned out or attempted to  
8 be assigned out, I should say. Prior to the Department  
9 attempting to assign you out and prior to you going  
10 outside of the Department with your concerns, did you  
11 reach out to Deputy Chief Marlon Wilson with your  
12 concerns and say, "Hey, they're making stops without  
13 probable cause?"

14 A I spoke to Marlon Wilson and you keep saying I went  
15 outside of the Department. I never went outside of the  
16 Department. Marlon Wilson is the deputy chief in charge  
17 of the Detective Unit. If there would be anyone I would  
18 go talk to, it would be him. I (inaudible) advice and I  
19 spoke to him.

20 Q So when you spoke to him, when you spoke to DC Wilson,  
21 was that after you had the sit-down with Severy and  
22 McCord?

23 A That was way after I had the sit-down. Well, the sit-  
24 down with McCord and Severy, that happened probably about  
25 the same time that I spoke to - that I text Marlon

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1 Wilson. I never did get to speak to him.

2 Q Okay. And --

3 A Go ahead, sir.

4 Q And so I just want to make sure we have the timeline  
5 here. So are you testifying that you sent the text to  
6 Marlon Wilson prior to sitting down with Severy and  
7 McCord to talk about a potential investigation?

8 MR. SKLAR: I'll object to form and foundation.  
9 Go ahead. Go on.

10 THE WITNESS: I can't tell you the exact time,  
11 but I know that Marlon Wilson was advised.

12 Q (By Mr. Smith) All right. Okay. I'll give you a chance  
13 to read allegation 15, Mr. Ball.

14 MR. SKLAR: Excuse me. Is that a question?

15 MR. SMITH: No. I was saying I will give him  
16 an opportunity to read allegation 15.

17 MR. SKLAR: Oh, all right.

18 THE WITNESS: Okay.

19 Q (By Mr. Smith) Okay. When you say you suspected that  
20 these arrests, searches, and seizures, violated the  
21 Fourth Amendment's prohibition against unreasonable  
22 search and seizures, was that as a result of the cases  
23 coming to you through the PDU?

24 A Yes, sir.

25 Q Okay. And that's when you noticed. Did you assign those



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1 cases out?

2 A Yeah. Remember, all the cases would get assigned whether  
3 they would get processed or not, they always got  
4 assigned.

5 Q And did any of those cases that you suspected had some  
6 kind of Constitutional defect that you assigned out, did  
7 warrants did get signed on those cases?

8 A I couldn't say. There may have been some that have  
9 warrants and then there were some that didn't get  
10 warrants signed on.

11 Q Why is it possible that you believe that these cases have  
12 some kind of Constitutional defect and you allow warrants  
13 to be signed?

14 A Okay. For one thing, that's my professional opinion as a  
15 sergeant working in a Detective Unit for 24 or 25 years.  
16 If I felt, and once again I had spoke - we had trouble  
17 with this earlier. I told you there were some cases that  
18 were iffy and I would go to the Prosecutor's Office and I  
19 would talk to them and tell them what I had, and I also  
20 told you that in a lot of these cases like this, we were  
21 told to send the warrants down and let the Prosecutor's  
22 Office make the determination and get it off of us.

23 Q In allegation 16, I'll give you an opportunity to read  
24 that.

25 A Okay.

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1 Q Now, you spoke about this earlier?

2 A Yes.

3 Q Did you send any emails to anyone within DPD regarding  
4 your allegations in number 16?

5 A About this particular paragraph 16?

6 Q And I say this in relation to number 16, you testified  
7 that you went directly to Adams --

8 A Yes, I did.

9 Q -- and some of the sergeants.

10 A Each one in this paragraph I spoke to individually.

11 Q And did you send any emails, any kind of communication  
12 outside of the text you sent to Marlon Wilson, did you  
13 send any emails, any kind of communication to anyone in  
14 DPD about what they told you?

15 A No, not that I recall. No.

16 Q So why would you text Marlon Wilson versus sending an  
17 email to the chain of command?

18 MR. SKLAR: I'll object to form and foundation.  
19 You can go ahead and give an answer.

20 THE WITNESS: Marlon Wilson is part of my chain  
21 of command. If I didn't feel comfortable and I felt that  
22 the people who I was talking to in the beginning were  
23 retaliating against me, I did not feel comfortable and I  
24 had that recourse to go talk to or send a text message to  
25 Marlon Wilson and that's what I exercised my right to do.

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1 I didn't do anything wrong.

2 Q So, again, this happened on May 20, 2021 that you spoke  
3 with him. Correct?

4 A Approximately, yes.

5 Q So when you speak to him and you --

6 MR. SMITH: Did we lose somebody?

7 MR. SKLAR: I'm here.

8 MR. SMITH: What did you miss Brother Counsel?

9 MR. SKLAR: Nothing.

10 MR. SMITH: Okay. I thought I heard somebody  
11 get kicked.

12 MR. SKLAR: I'm good.

13 Q (By Mr. Smith) Okay. So you said this happened  
14 approximately on May 20th?

15 A Yes, sir.

16 Q So after you had that conversation with Lieutenant Adams  
17 and the sergeants, what do you immediately do next?

18 A I can't tell you what I did immediately next. I can't  
19 tell you that because I don't recall exactly what I  
20 immediately did, but I continued to work in the PDU and I  
21 continued to address this and I continued to release  
22 prisoners that I felt that probable cause was lacking or  
23 there were questionable circumstances and as a result of  
24 that, I was told that I could no longer do that by  
25 Lieutenant McCord.

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1 Q Let's back up, Mr. Ball.

2 A Ah-huh.

3 Q The question I asked you was what you immediately did  
4 next. It sounds like what you just told me is you went  
5 back to work. Is that accurate?

6 A I was at work.

7 Q Okay. So you went back to just doing your sergeant  
8 duties at the PDU. Is that fair? I don't want to put  
9 words in your mouth.

10 A I went back to doing what I was doing that led me to  
11 investigate this and I kept a record and I kept doing  
12 what I felt was right as far as discharging prisoners and  
13 not proceeding with cases and as a result, I was called  
14 in by Lieutenant McCord who told me that I no longer had  
15 the (inaudible) to just release a prisoner. I had to go  
16 through her which I never had to do and which no other  
17 sergeants in PDU had to do to my knowledge and there was  
18 really no reason given, and I assumed that it was because  
19 of the allegations I had made and that's where I went and  
20 I continued to do what I was doing and --

21 Q Mr. Ball, I don't mean to interrupt you, Mr. Ball. It  
22 looks like you're reading off something. What are you  
23 reading off of?

24 A I'm not reading off of anything, sir. I'm looking at the  
25 screen that you provided.

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1 Q Gotcha. Okay. I'll let you finish.

2 A I'm done.

3 Q Now, here's the concern, Mr. Ball. This happened on  
4 approximately May 20th. Did you send that text message  
5 to DC Marlon Wilson on May 20th?

6 A I don't know, sir. I would have to see it. I can't  
7 recall.

8 Q Okay. So it sounds like you went back to work.

9 A I was always at work. I was always at work.

10 Q Okay. You were at work. So this happened at work. When  
11 I'm saying you went back to work, you continued on with  
12 your duties. So this happens. You continue on with your  
13 duties, but help me understand here. You just told  
14 officers that you're doing something that as I read to  
15 you earlier the Department regulations say is a serious  
16 offense. You're making arrests without probable cause  
17 which they define as an illegal act?

18 A No. You said I just told officers. I had just spoken  
19 with Lieutenant Adams, Sergeant Brannock, Sergeant  
20 Wiencek, about what was going on with all these arrests  
21 coming in here.

22 Q And you told them that - well, let me do it this way.  
23 Did you tell Lieutenant Adams, Brannock and Wiencek that  
24 you believed that those stops lacked probable cause?

25 A What I told them - I didn't tell them anything. I

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1 questioned them and at that time I was told, first  
2 Sergeant Wiencek told me, "Hey, I don't know. I'm just  
3 doing what I was told to do. I'm trying to get  
4 confirmed." That was --

5 Q What questions did you ask him specifically to your  
6 recollection?

7 A That was regarding the arrests and I said, "What's going  
8 on with all these arrests, all these people getting  
9 arrested for a gun in a car and we don't have individual  
10 probable cause?" And you have to have individual  
11 probable cause to arrest anybody for a gun and this was  
12 not going on.

13 Q That's my point, Mr. Ball. You're telling me you  
14 informed the people you just cited that, hey, what's  
15 going on with all these cases? They lacked individual  
16 probable cause. That is a violation of the DPD  
17 regulations and I'm trying to understand why you went  
18 back to assuming your normal duties as opposed to  
19 immediately reporting that as required by the DPD  
20 regulations?

21 A I reported it to Jason Adams who was a lieutenant. He  
22 was the one who gave out the order.

23 Q Okay.

24 A And then --

25 Q Help me understand. So you reported it to the lieutenant

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1           that you claim made the offense?

2     A     I didn't know he had made the offense at that time. I  
3           told you when I spoke to him, that's when it was brought  
4           to my attention that Lieutenant Adams had gave the order.  
5           Even the officers assigned to the Special Operations Unit  
6           had been telling people that Jason Adams, and I know  
7           that's hearsay, but I know they had been spreading rumors  
8           that Lieutenant Jason Adams were telling to arrest  
9           everybody. Everybody goes.

10                   That was what I was told. Everybody in the car  
11           goes with a gun no matter what. Everybody goes.

12    Q     And I think I heard you say you kept records. What  
13           records did you keep?

14    A     It wasn't that I kept records. I said I kept monitoring  
15           all the arrests that were coming in and when I found out  
16           that they had these irregularities, I would continue what  
17           I had to do and if they lacked probable cause, then I  
18           would release them pending and --

19    Q     When you say "monitor," did you just have some case  
20           numbers that you kind of looked in the system at or did  
21           you segregate those files and keep them apart from  
22           everything, from your other --

23    A     Yeah. They're segregated anyway because --

24                   COURT REPORTER: Excuse me. We're cutting each  
25           other off here and I'm not getting the full question and

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1 answer. ". . . did you segregate those files and keep  
2 them apart from everything, from your other" --

3 Q (By Mr. Smith) From your other cases?

4 COURT REPORTER: Thank you.

5 THE WITNESS: Okay. The gun cases are set apart  
6 from each case anyway. Each case comes in and has its  
7 own category, so it was easy to sign the gun cases as  
8 opposed to a B&E auto case. Each case was categorized  
9 and it was put into the arrest book; charged CCW motor  
10 vehicle, charged CCW person. That's how we kept the  
11 record.

12 Q (By Mr. Smith) Now, against the backdrop of this, did  
13 Commander Stewart have weekly meetings regarding gun  
14 cases, if you recall?

15 A She had meetings, but I was not privy to those meetings.

16 Q You never attended any of those meetings?

17 A I may have attended one meeting, but --

18 Q Well, when did you attend that one meeting?

19 A That was a while ago. I couldn't even tell you when, but  
20 that was Lieutenant McCord. She chose who she wanted to  
21 go to those meetings with her and I was not the person  
22 she chose.

23 Q You were a senior sergeant. Why didn't you attend those  
24 meetings?

25 A Because I was not invited or ordered to, sir.



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1 Q Okay. Did you receive any emails regarding the gun  
2 cases, the statistical numbers that the Department, you  
3 know, had record of?

4 A No, sir.

5 Q Now, I want to make sure I heard you right. Did you say  
6 that Lieutenant McCord advised you to notify her in  
7 regards to expired CCW arrests?

8 A No. Lieutenant McCord told me that I would no longer be  
9 able to release prisoners on my own. I had to go through  
10 her.

11 Q Okay. And did she give you a reason for why she said  
12 that to you?

13 A No, not that I can recall. I just know that that had  
14 never happened to me during my entire career and I know  
15 that's part of my job responsibilities to determine if a  
16 person is held in custody or not.

17 Q So I'm going to give you an opportunity to read number 17  
18 of the Complaint.

19 A Yes, sir. Okay.

20 Q So this unwritten "order", if I heard your testimony  
21 right, is it that this unwritten order came from  
22 Lieutenant Adams?

23 A Yes, sir. That was my understanding.

24 MR. SKLAR: Do you want to take a break,  
25 Marcellus? We can take a five minute if you're getting

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1           antsy?

2                       MR. SMITH: Yes. Let's take about a five  
3           minute break.

4                       MR. SKLAR: Yeah. Let's reconvene at 2:25.  
5           Six minutes.

6                       (At 2:19 p.m., recess taken)

7                       (At 2:28 p.m., back on the record)

8    Q       (By Mr. Smith) I still should be sharing my screen.

9                       MR. SKLAR: I think you're on Paragraph 17.

10                      MR. SMITH: Yes.

11   Q       (By Mr. Smith) Okay. I just want to jump down to number  
12           20 and I'll give you a chance to read that, Mr. Ball. Is  
13           Mr. Ball back? Where is my screen at? Oh, there he is.  
14           Okay. I had my screen set up funky. So I'll give you an  
15           opportunity to read Paragraph 20.

16   A       Yes, sir.

17   Q       Okay. So earlier it says you spoke to Lieutenant Adams  
18           on May 20th. So you also spoke to him again on May 24th.  
19           Is that correct?

20   A       I'm not sure if that's correct or not, but I did speak to  
21           him and that was the last correspondence that I had with  
22           him.

23   Q       What did you say? What was the conversation about, first  
24           of all?

25   A       Basically, I believe it was about the arrest and the lack

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1 of probable cause.

2 Q And do you recall what you said to him in particular?

3 A No, sir, I don't.

4 Q Okay. And in allegation 21, I'll give you a chance to  
5 read that.

6 A Okay.

7 Q Is that connected to number 20?

8 A That's connected not to 20. That's connected to when I  
9 went to Lieutenant Adams regarding the allegations of him  
10 making that order to arrest everybody. I believe that's  
11 when that was. On the 24th, that's the day I spoke to  
12 him briefly, but I think all that other, it may have been  
13 related to when I spoke to him, Brannock, Wiencek, about  
14 the blanket order to arrest everybody.

15 Q Okay. And I'll give you an opportunity to read through  
16 22.

17 A I had been contacting Lori Mireless and Kim Miles all the  
18 time and I had been --

19 Q Well, let me stop you, Mr. Ball. There wasn't quite a  
20 question yet.

21 A Oh, okay.

22 Q Thank you. Okay. So when you contacted the prosecutors,  
23 what was the form of communication? Was it an email, a  
24 phone call? How did you guys connect?

25 A On the phone.

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1 Q And what did you tell the Wayne County Prosecutors you  
2 referenced?

3 A I can't remember verbatim, but it was in regards to your  
4 arrests and the lack of probable cause.

5 Q Now, you reached out to the Wayne County Prosecutors.  
6 Did you ever try to contact then Chief of Police Craig?

7 A I tried to contact Chief of Police Craig prior to this on  
8 other incidents and he would not talk to me.

9 Q Okay. But my question is did you reach out to him on  
10 this incident?

11 A No, sir.

12 Q Okay. Did you reach out to any of the assistant chiefs  
13 on this incident?

14 A No, sir.

15 Q You also reached out to Jacqueline Pritchard which I find  
16 very interesting. Was Jacqueline Pritchard, she was  
17 commander over at No. 8 I believe you said. No, not No.  
18 8. It was a different unit. What was she commander of  
19 at that time?

20 A Narcotics.

21 Q Narcotics. Okay. So she's not at No. 10. Why did you  
22 reach out to Commander Pritchard at that time?

23 A Because I thought she was the only executive that I could  
24 trust.

25 Q And so what did you tell Commander Pritchard?

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1 A I told her my concerns and once I told her that, I  
2 believe she had no recourse but to inform Marlon Wilson.

3 Q So was it Commander Pritchard who reached out to DC  
4 Wilson on your behalf?

5 A I don't know if she did or not. I know I did. You would  
6 have to ask her.

7 Q Okay.

8 A I don't know what she did. She didn't talk to me about  
9 her, you know, correspondence with --

10 Q You - I'm sorry. I don't want to step on you. You  
11 obviously seem to have a comfort with Jacqueline  
12 Pritchard. What is the nature of you and Commander  
13 Pritchard's relationship?

14 A No. I have a comfort with Lieutenant - I mean, Deputy  
15 Chief Wilson as well. I have a comfort level somewhat  
16 with Tiffany Stewart. We all used to work together.

17 Q But that's not my question. I'm sorry.

18 A I'm trying to tell you it's a different comfort level  
19 with different people. I felt like on this incident I  
20 couldn't trust anybody within the 10th Precinct, so I,  
21 you know, spoke to Commander Pritchard who I believe was  
22 non-bias and would help me make the right decisions and  
23 she couldn't help me make a decisions and I believe  
24 that's when she went to Marlon Wilson and forwarded my  
25 concerns.

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1 Q So she went to Marlon Wilson? Did I hear you right that  
2 she went to Marlon Wilson and told --

3 A I said I don't know --

4 Q You don't know. Okay.

5 A -- whether she did. I said she may have, but I know  
6 that I did. I told you I don't know what her  
7 correspondence was with Marlon Wilson, but I would not be  
8 surprised.

9 Q And just so I'm clear, at some point in the course of  
10 your DPD career prior to you being at No. 10, did you not  
11 work with Jacqueline? You worked with Jacqueline  
12 Pritchard? Correct?

13 A I worked with her at Narcotics. I worked with her at the  
14 8th Precinct Detective Unit.

15 Q Okay. And isn't it also true, correct me if I'm wrong,  
16 but didn't Jacqueline Pritchard sit on one of your  
17 commander actions?

18 A I only had two in my whole career.

19 Q No, no. My question is didn't she sit on one of your  
20 commander actions? I'm not talking about the disposition  
21 or how many you had?

22 A Yes.

23 Q She did sit on one of your commander actions, and prior  
24 to you working at No. 10, had you also worked with then  
25 Deputy Chief Marlon Wilson?

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1 A No.

2 Q But you had never worked with him - okay. I gotcha.

3 A None other than working under his command at the  
4 detective group.

5 Q Now, did I hear you correctly when you said prior to  
6 coming to No. 10 you had also worked with Commander  
7 Stewart in some form or capacity?

8 A Yes. We were both detectives together.

9 Q But you felt you could not trust her to take your  
10 concerns to?

11 A Correct.

12 Q And so let's go over allegation 23. I'll give you a  
13 chance to read that.

14 A Yes, sir.

15 Q Okay. But before I even go there, DC Fitzgerald, had you  
16 worked with him prior to arriving at No. 10?

17 A I worked with him at Narcotics.

18 Q So would it be fair to say that you had some form of work  
19 relationship with some pretty high - well, at least the  
20 mid-level manager level with some high-ranking DPD  
21 officials? Is that fair to say?

22 A Yes, it is.

23 Q So as it relates to allegation 23, I'll give you an  
24 opportunity to read it.

25 A Yes, sir.

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1 Q Okay. So on May 27th, Captain Severy and McCord met with  
2 you to tell you you were being reassigned until further  
3 notice to the Data Quality Unit effective at 6:00 a.m.  
4 I'm reading that right. Correct?  
5 A You're reading it, but it was - they told me that I was  
6 being reassigned because I was being investigated for  
7 spreading rumors.  
8 Q For spreading rumors?  
9 A Yes, sir.  
10 Q Would it fair to say that's also known as gossiping?  
11 A Yes, sir.  
12 Q Okay. I'm going to pull up Exhibit 7 and I'm still  
13 sharing my screen and I'm in the record regarding Code of  
14 Conduct and I'm going to direct your attention to 102.3-  
15 6.15. Can you see that, Mr. Ball?  
16 A What is the number again?  
17 Q 102.3-6.15. It says Miscellaneous. Can you see that?  
18 A Yes.  
19 Q Read subsection 2 for me, please.  
20 A (Reading):  
21 "Gossiping about a member of the DPD concerning  
22 personal character or conduct."  
23 Q Okay. And per the Department Manual, that is considered  
24 prohibited conduct?  
25 A Yes.



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1 Q Would you agree with that representation, Mr. Ball?

2 A Yes, sir.

3 Q Okay. So I'll pull the Complaint back up and we'll dig  
4 into this allegation. Who did Captain Severy or Donna  
5 McCord say you were gossiping about?

6 A They never said who I was gossiping about. They never  
7 said who made the allegation. They never said anything  
8 about it. When I went in there, gossiping was the last  
9 thing I expected to hear from them. I don't know where  
10 this gossiping came from. As a matter of fact, I don't  
11 even know what the results of the investigation was or  
12 who the complainant was. I never heard anything about  
13 gossiping this whole time.

14 I believe this was something that was  
15 fabricated in order to justify my being removed without  
16 it looking like I was being retaliated against.

17 Q Understood. So just so I'm clear, Captain Severy or  
18 Donna McCord never told you what the --

19 A No.

20 Q -- they just told you it was for the offense of  
21 gossiping?

22 A That's exactly correct, sir. They never told me who was  
23 the complainant, what was allegedly said which I had the  
24 right to know. I asked them did I have the right to  
25 know. I told them I had a right to know. They would not

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1 tell me, neither one of them.

2 Q And what time did this sit-down occur or approximately?

3 A This happened mid-afternoon.

4 Q So mid-afternoon on May 27th. Is that fair?

5 A Yes, sir.

6 Q And so what else did they tell you to do in regards to  
7 being assigned out?

8 A Nothing. I went back out. I was getting ready to sit  
9 down at my desk, finish out my tour of duty. I was on  
10 overtime, I believe. Captain Severy relieved me of my  
11 duties. I told the unit that I was being transferred.  
12 He told me I was being reassigned until further notice  
13 and I was told to get my things and leave.

14 Q Okay. Now, is it typical from your personal knowledge  
15 that when there's a pending investigation that the  
16 officer, that the investigation is assigned to a  
17 different unit or a different precinct while that  
18 investigation is going on? Isn't that customary?

19 A No, not in all cases and in this case, nothing was  
20 customary. Nothing was going on with the Department  
21 Standards and Regulations. Commander Stewart was not  
22 notified. Personnel was not notified. They circumvented  
23 all the means to properly transfer someone or have them  
24 reassigned and they spoke directly with Captain Sevick  
25 and basically asked him could he keep me down there and

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1 he agreed and everything regarding the transfer or  
2 reassignment process was not followed.

3 They didn't adhere to it at all. Commander  
4 Stewart found out about it. She said she did not know  
5 anything about this. She did not authorize it and she  
6 became very upset about it.

7 Q Did DC Wilson have any knowledge? Did he know you had  
8 been assigned out prior to you being assigned out?

9 A I don't believe so. I don't know. I didn't speak to him  
10 regarding that.

11 Q Okay.

12 A And I don't know - oh, I'm sorry.

13 Q Did you immediately contact your union rep after were you  
14 assigned out?

15 A No.

16 Q Did you contact your union rep at all?

17 A I had spoke with my union rep like I had told you before.  
18 I had spoke to my union rep regarding another incident  
19 and I lost faith in him when he told me that I could go  
20 anywhere that I wanted to and I lost faith in him.

21 I had lost faith in a lot of people at that  
22 point in time because I felt like, you know, I was being  
23 ostracized, felt like I couldn't trust anybody. I felt  
24 like I was under the radar and I felt like they were  
25 trying to find reason to get rid of me. It was hard to

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1 work.

2 Q And so you felt like you couldn't trust your union to  
3 represent you in a matter in which you felt you were  
4 aggrieved?

5 A Yes, sir.

6 Q Now, how soon after that meeting ended did you contact  
7 Commander Pritchard?

8 A I didn't contact her after that meeting.

9 Q When did you contact Commander Pritchard?

10 A This was all done before. Once I left there, once I was  
11 basically told to get out, I contacted my attorney.

12 Q So if I heard you right, you had your discussions with  
13 Pritchard before McCord and Severy attempted to assign  
14 you out. Is that correct?

15 A Yes.

16 Q Okay. And how soon after leaving your meeting with  
17 Severy and McCord did you contact DC Wilson?

18 A I'm not sure, but I know that I had contact with him. I  
19 don't know exactly what time I contacted him.

20 Q And so was it hours that it took you to contact him? Was  
21 it days?

22 A I don't believe it was hours or days. I don't know  
23 exactly when, but I know it wasn't days. It should be  
24 timestamped on the correspondence.

25 Q So it's fair to say sometime after you get assigned out,

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1           you contact Wilson. Now, was the only communication you  
2           had with Wilson via text or did you speak to him on the  
3           phone at some point?

4       A    Text.

5       Q    Okay. So allegation 27. It says:

6                        "Deputy Police Chief Wilson informed Plaintiff  
7           Marcellus Ball that he was unaware of the transfer."

8           So in that text message exchange you had with Deputy  
9           Chief Wilson, he said he was unaware of the transfer?

10      A    I believe so. I would have to see the actual text  
11           message to comment on that.

12      Q    And so No. 28. It says:

13                       "Deputy Police Chief Wilson told Plaintiff  
14           Marcellus Ball all transfers of personnel assigned  
15           to the Detective Unit must be approved by him and no  
16           request for the transfer was made to him."

17           Now, of course, the text may not have been stated just  
18           the way it's in this Complaint, but some form of  
19           communication similar to that was had via that text  
20           exchange considering the only communication you had with  
21           Wilson was via text? Is that correct?

22      A    I'm not sure of how that response was made, sir. I can't  
23           tell you exactly how it was made because I don't  
24           remember.

25      Q    I'm a little confused. You said the only communication

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1           you had with DC Wilson was via text and so I just want to  
2           be sure that I'm clear on that because it seems like  
3           there were a lot of things said on this text. I just  
4           want to make sure this is all stacking up.

5                       So I want to be clear. No. 28. In some form  
6           or fashion, that communication was via text? That's from  
7           your prior testimony.

8       A    If this was not in that text, it was communicated to me  
9           by someone else or I don't know if Wilson had talked - I  
10          don't believe Wilson had spoken to me, but I have found  
11          out that Deputy Chief Police Marlon Wilson did not know  
12          about this. I can't remember exactly how I found out  
13          about it, but I was informed that he didn't know anything  
14          about it and that's when I had found out that they had  
15          totally circumvented the transfer system.

16       Q    So given your testimony --

17       A    And I think it was, it might have been even Tiffany  
18          Stewart, the commander.

19       Q    Okay. So given your testimony, then allegation 28 is  
20          incorrect. You were not told by Deputy Chief Wilson that  
21          the transfer had to be approved by him and no request for  
22          the transfer was made. You heard about it secondhand?  
23          Is that what I'm understanding now?

24       A    I'm not going to say that, sir, because I don't remember.  
25          There was a lot going on at that time. I was under a lot

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1 of duress and I'm going to tell you that, but I know that  
2 I was informed some kind of way that Chief Wilson did not  
3 know about it and that was confirmed.

4 Q Okay. And let's go to allegation 29. It says:

5 "Plaintiff Marcellus Ball later learned that  
6 captain Ian Severy and Lieutenant Donna McCord had  
7 circumvented the chain of command to relieve  
8 Plaintiff of his duties because he expressed his  
9 concerns regarding the unlawful Order and practice  
10 to conduct blanket searches, seizures, and arrests  
11 when a gun was found in a vehicle, irrespective of  
12 ownership, knowledge, or responsibility."

13 Who told you in the Department that Ian Severy and McCord  
14 were transferring you because you were speaking out about  
15 this unlawful order?

16 A Let me read this again.

17 MR. SKLAR: Did I lose everybody? Oh, no. I  
18 got you. Everyone looked still.

19 MR. SMITH: I'm still here Brother Counsel.

20 MR. SKLAR: Okay.

21 MR. SMITH: Were you here for the last  
22 question?

23 MR. SKLAR: I wasn't.

24 Q (By Mr. Smith) Okay. The last question I asked was in  
25 regards to allegation No. 29 Mr. Ball, who in the

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1 Department told you that Captain Severy and Lieutenant  
2 McCord were attempting to essentially assign him out  
3 because he spoke out about what he alleges is the  
4 unlawful order?

5 MR. SKLAR: Okay. Got it.

6 THE WITNESS: Okay. I can't say exactly who  
7 told me what, but I was getting a lot of anonymous  
8 information regarding this incident and that I should  
9 look into it. I can't tell you exactly who told me that  
10 Captain Severy and Donna McCord had circumvented the  
11 chain of command, but I found out very shortly because I  
12 was - the transfer was immediately rescinded and I think  
13 that was via Tiffany Stewart.

14 Q (By Mr. Smith) And to be clear Mr. Ball, I'm going to  
15 give this as a qualifier. When you say you can't tell  
16 me, do you mean you can't recall or you will not tell me?

17 A I can't recall and I do believe that it was - in fact, I  
18 can think about it correctly now. I do believe that I  
19 think it was Commander Stewart because at the time they  
20 did this, she was not in the office.

21 Q Okay. And so I want to be clear, so you believe it was  
22 Commander Stewart who told you that Captain Severy and  
23 McCord were assigning you out because you expressed  
24 concerns about this unlawful order?

25 A And she had no knowledge of it.



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1 MR. SMITH: I'm going take a quick little break  
2 here, a couple minutes.

3 MR. SKLAR: Okay. When do you want to  
4 reconvene?

5 MR. SMITH: We're just going to go off the  
6 record really quickly here.

7 (At 2:53 p.m., recess taken)

8 (At 2:55 p.m., back on the record)

9 Q (By Mr. Smith) So Mr. Ball, I want to go back to - where  
10 is it at, No. 29, where you seem to indicate that you  
11 learned about this from Commander Stewart.

12 A I believe so.

13 Q You believe so. Correct me if I'm wrong. You testified  
14 earlier that you didn't take your initial concerns about  
15 the probable cause to Stewart. Is that correct?

16 A Yes.

17 Q So prior to being assigned out, you didn't take your  
18 concerns to DC Wilson. Is that correct?

19 A I'm not --

20 Q I'm talking about prior to you being assigned out or at  
21 least attempted to be assigned out.

22 A You have to check the timeline, but I don't know, but I  
23 know that I did reach out to him regarding my concerns.

24 Q So Mr. Ball, if you didn't go to Commander Stewart to  
25 inform her of these probable cause issues, how is it

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1 possible that she's able to come back and tell you they  
2 assigned you out or attempted to assign you out because  
3 you spoke out about these probable cause issues?

4 MR. SKLAR: Object. You haven't laid a  
5 foundation and assumes facts not in evidence. Go ahead.  
6 Calls for a hypothetical. Go on.

7 THE WITNESS: You said how is it possible?

8 Q (By Mr. Smith) Yeah. I'm trying to close the knowledge  
9 gap here. You didn't go to Commander Stewart with your  
10 PC issue, about probable cause?

11 A No.

12 Q And so now you've testified that you believe that it was  
13 Commander Stewart who told you that Lieutenant McCord and  
14 Captain Severy circumvented the chain of command because  
15 you expressed, you know, you spoke out about these  
16 probable cause issues?

17 A Yes.

18 Q How is it possible she would have known about this if you  
19 didn't tell her?

20 A If I didn't tell her?

21 MR. SKLAR: Foundation. Go on.

22 THE WITNESS: What do you mean if I didn't tell  
23 her? I didn't tell her anything. Commander Stewart is  
24 the commander of the 10th Precinct. She would get  
25 informed of things. These would be questions that you

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1 would have to ask her. All I know is that she was not  
2 aware of the transfer or the reassignment. She had no  
3 knowledge of it.

4 She was upset about it because the process of  
5 me being reassigned was circumvented. There was no  
6 notification to DC Wilson. There was no notification to  
7 Personnel. There was, from my knowledge and my  
8 understanding, there was only conversation between  
9 Captain Severy, Donna McCord, and Captain Seveck.

10 Q Gotcha. Now, allegation 30:

11 "Plaintiff Marcellus Ball's work environment  
12 became increasingly hostile and threatening causing  
13 him, among other things, hardship, and distress."

14 Mr. Ball, how did your work environment become hostile?

15 A How did it become? First of all, it was increasingly  
16 hostile all along regarding this. It was hostile and my  
17 duties were being taken away from me.

18 Q Okay. What duties were taken away from you, Mr. Ball?

19 A My right to discharge a prisoner without - because I felt  
20 that there was not probable cause. That was one of the  
21 main things. That's one of the main things that I need  
22 to perform my duties and that was taken away from me and  
23 no reason was given and it led me to believe that it was  
24 because of what I had done.

25 Q Okay. What other incidents did you experience that made

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1           you feel that this was a hostile and threatening work  
2           environment?

3       A    Officers that came to me and told me that Lieutenant  
4           McCord had told them not to listen to me and --

5       Q    What officers came --

6       A    Pardon?

7       Q    I'm sorry. What officers came to you?

8       A    Is that something I have to disclose?

9       Q    Yes.

10                   MR. SKLAR: What is the question? I'm sorry.

11       Q    (By Mr. Smith) What officers came to him and instructed  
12           him, well, informed him that McCord told them not to  
13           listen to the direction from Marcellus Ball?

14                   MR. SKLAR: Yeah. If you know, give an answer.  
15           Absolutely.

16                   THE WITNESS: I know one for sure and that was  
17           Officer Moore.

18       Q    First name for Officer Moore?

19       A    Markala, and it got to the point where Markala was  
20           sitting behind me and Lieutenant McCord moved her across  
21           the room.

22       Q    Let's address that real quickly. Correct me if I'm  
23           wrong. Did Lieutenant McCord ever have conversations  
24           with you regarding your interactions with Officer Markala  
25           Moore?

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1 A Yes, she did.

2 Q Okay. And what was the subject of that conversation?

3 A The subject to me, it was several conversations.

4 Q Okay.

5 A Basically, I'll just give you one of the concerns. I  
6 don't know. I can only speculate, but I believe that she  
7 thought that Markala and I were close. We were friends  
8 and that she did not like that. I know that she did not  
9 like that for sure. I know that personally and she would  
10 always make comments about it.

11 Q Well, is it true that you and Officer Markala Moore are  
12 friends?

13 A I'm friends. I was friends with everybody involved.

14 Q No, no. I'm just asking about Officer Markala Moore.

15 A No, I can't just say. Markala Moore is a friend. I'm  
16 friends with her mother. I'm friends with her  
17 grandmother. I'm friends, I'm almost like a grandfather  
18 to her child. I have no problem with Markala Moore.  
19 Nothing is inappropriate. I call her my work daughter.  
20 Markala Moore is a smart individual. She's been going  
21 through a lot of things. She's accomplished a lot of  
22 things and for her to have the time on the job and to  
23 come to the PDU, that says a lot for her. She does good  
24 work and I don't think you'll find anybody involved in  
25 this case who will say she didn't, and if anybody wants

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1 to say that there was something inappropriate, they're  
2 wrong.

3 Q And so when you say "work daughter," that is pretty  
4 strong language. That implies somewhat of a familiar  
5 relationship. Is that a fair takeaway from that kind of  
6 comment, Mr. Ball?

7 MR. SKLAR: I'll object as to argumentative,  
8 form and foundation. You can give an answer.

9 THE WITNESS: I've had people who call me their  
10 work dad for years. I mean, it's nothing - it's a term of  
11 endearment, nothing else.

12 Q (By Mr. Smith) Just to be clear, I'm not trying to imply  
13 anything under current there. I just want to make sure I  
14 understand when you're talking about a work daughter, I  
15 understand what you mean by that.

16 A I have a couple of guys who I call my work sons. I mean,  
17 I'm a different type of supervisor. I have a supervisory  
18 skill that works for me. I have a supervisory skill that  
19 seems to get the best out of the officers. It seems to  
20 make them trust me more and I'm always open. You can  
21 come to me.

22 Q I'm sorry. I don't want to cut you off, Mr. Ball.

23 A Ah-huh.

24 Q Were there any other members of the PDU that you  
25 considered like your work daughter or work son?

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1 A No. I had close friends. Gambril was a close friend.

2 I've been knowing her for a long time. Jason Kuhar was a  
3 very close friend. Michael Panackia was a very close  
4 friend. All these guys were close friends.

5 Q And so Mr. Ball, they took away your, you claim they took  
6 away your ability to just do releases in cases that  
7 didn't have probable cause. Is it that they took it away  
8 or Lieutenant McCord wanted to review the cases first?

9 A No. She told me I couldn't do it. She told me anything  
10 that I had to do, I had to contact her. I told her what  
11 about when she's off on the weekends. She told me you  
12 got to get in contact with me. You can't release  
13 prisoners anymore and that was her statement and that had  
14 never happened to me before, period. Never.

15 Q And what other hardship or distress did you suffer from  
16 what you claim as a hostile working environment?

17 A There was no more communication between myself and  
18 Lieutenant McCord. The officers seemed to lose their  
19 respect and they were taking sides. There was a female  
20 sergeant who was there. I can't remember her name now,  
21 but the office became divided and it seemed like I was  
22 the odd man out and I had no problems with that because I  
23 was still trying to do my job, but it made it  
24 increasingly harder to do this with this type of  
25 environment, and like I said, I felt like I was

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1 ostracized.

2 I couldn't trust anybody. I stayed to myself  
3 and I tried to do the best that I could until my  
4 retirement date.

5 Q And I want to hop down to allegation 37. It says:

6 "Defendants Captain Ian Severy, Lieutenant  
7 Jason Adams and Lieutenant Donna McCord retaliated  
8 against Plaintiff Marcellus Ball because of his  
9 protected activity."

10 So tell me how did Captain Severy retaliate against you?

11 A How did he retaliate against me? When I was accused of  
12 rumors and I was reassigned and the system was  
13 circumvented.

14 Q Did you have any other acts that you can point to that  
15 Captain Severy committed that you would consider  
16 retaliation?

17 A Consider retaliation?

18 Q Yes. Do you have any other acts that you believe were  
19 committed by Captain Severy that you would consider  
20 retaliation against you for what you allege is you  
21 speaking out about these Constitutional violations?

22 A Other than the fact that I was attempted to be  
23 reassigned. Captain Severy and I had limited contact  
24 with each other --

25 Q Okay.



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1     A     -- and there was one point in time where we spoke and he  
2           asked me, "You don't have anything else to say?" I told  
3           him, "I think I've said enough," and that was it. I just  
4           thought that I just didn't feel protected at my job  
5           anymore. I felt like I was, like I say, I felt like the  
6           odd man out. You could hear rumors. You could hear  
7           people talking, but I don't believe rumors even though I  
8           was supposedly spreading rumors.

9     Q     And so, okay, if I got you right, the only act of  
10           retaliation you had for Ian Severy is his attempt to  
11           assign you out, but I want to be clear.

12                   MR. SKLAR: Form and foundation. That wasn't  
13           his testimony. His testimony was more complete than  
14           that.

15                   MR. SMITH: Fair point. I'll rephrase.

16     Q     (By Mr. Smith) To be clear, you were not actually  
17           assigned out, were you, Mr. Ball?

18     A     No. I was attempted to. Like I said, the system was  
19           circumvented and it was rescinded.

20     Q     Okay. To your recollection, how did Lieutenant Jason  
21           Adams retaliate against you?

22     A     Lieutenant Jason Adams when I reported to him, he became  
23           belligerent. He started yelling at me calling me the  
24           CRTP sergeant. He told me I didn't know what I was  
25           doing. I needed to go back there and focus on learning

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1           how to be a PDU lieutenant. He told me that I don't have  
2           any right to come in there and question him about what he  
3           does and what he doesn't do or what his crew doesn't do  
4           and he basically told me that I was inadequate as a  
5           sergeant, and he kept reiterating that all I wanted to do  
6           is have people sign forms to not prosecute, but what he  
7           really didn't realize is that the CRTP form is a form  
8           that is used as an investigative tool because in order to  
9           get somebody to CRTP, first of all, you have to have  
10          established who the suspect is and then after you  
11          establish who the suspect is, that's when I would go to  
12          the Prosecutor's Office and get a witness detainer and  
13          try and legally make this person prosecute and that's  
14          what the CRTP form is.

15                   There was nothing wrong with the CRTP. It was  
16          a good stat because it was a case closer once you got  
17          that person identified and arrested, so for him to call  
18          me that, it bothered me because he didn't know what he  
19          was saying and that I knew what I was doing and I was  
20          trying to do the best job possible and --

21       Q       So how did Lieutenant McCord retaliate against you?

22       A       McCord, like I said, on the basis where she told people  
23               not to listen to me. She took my responsibilities away.

24       Q       Thank you. And so we're going to to Count II which is  
25               your Monell Claim against the City of Detroit and so I'm

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1 going to go to allegation 44. It says:

2 "At the time of the Constitutional deprivations  
3 described above, Defendant City of Detroit had an  
4 illegal policy or custom of retaliating against and  
5 attempting to silence employees, Like Plaintiff  
6 Marcellus Ball, who exercised their clearly  
7 established First Amendment Constitutional rights to  
8 speak out as citizens on matters of substantial  
9 public concern as described above."

10 Mr. Ball, are you aware of a written policy of the City's  
11 that explicitly states that members of DPD can retaliate  
12 against their co-workers when they speak out about  
13 Constitutional violations?

14 A No, sir, I'm not aware of a policy of that.

15 Q Okay. So it's not a written policy?

16 A I'll say I'm not aware of.

17 Q Okay. And so for No. 44, are you basing this policy on  
18 this unwritten order you say that Lieutenant Adams  
19 essentially created or made or command he gave?

20 MR. SKLAR: I'm going to object to form and  
21 foundation. You can answer if you have one.

22 THE WITNESS: I don't have an answer for that.  
23 I think that that would be something that, you know,  
24 would be greater covered by my attorney than myself  
25 because they help me and I don't know if I have an

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1           adequate answer and I don't want to answer wrong.

2                   MR. SKLAR:   You're not doing anything wrong.  
3           Just answer truthfully.   That's all you've been doing.  
4           You can give your best or go ahead.

5                   THE WITNESS:   I don't even have a comment on  
6           that, sir.

7                   MR. SKLAR:   Okay.

8       Q    (By Mr. Smith)   I'll ask again.   What illegal policy or  
9           custom are you referring to when you said the City had an  
10          illegal policy or custom of retaliating against employees  
11          like yourself?

12                  MR. SKLAR:   Let me just place an objection.  
13          The Complaint speaks for itself, but go ahead and give an  
14          answer if you have one, sir.

15                  THE WITNESS:   It's just like it says.   I didn't  
16          have any problems until I brought these to light,  
17          especially the unwritten policy by Lieutenant Adams.   He  
18          made a policy that everybody in the car goes to jail for  
19          a gun regardless of the circumstances.   Right after I  
20          made these allegations, there was a teletype sent out  
21          describing arrests.   You should have that in your packet  
22          as well.

23                  I was informed by - strike that.   There were  
24          people going around the precinct saying that they had no  
25          idea of what Lieutenant Adams had done and what he had

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1 said and these were people who were executive.

2 Q (By Mr. Smith) So the executives didn't know this was  
3 going on?

4 A According to them, yes. They didn't know of the  
5 unwritten rule by Lieutenant Adams. That's what I was  
6 told.

7 Q I'm sorry.

8 COURT REPORTER: Excuse me. I didn't get that  
9 because you're speaking over each other. Your answer,  
10 please?

11 THE WITNESS: I know that Captain Severy  
12 indicated that he was not aware of it.

13 Q (By Mr. Smith) So at the captain level in the precinct,  
14 Captain Severy wasn't aware of it, so Lieutenant Adams,  
15 he's just a lieutenant within SOU. To your knowledge,  
16 who establishes the Directives and Orders for police  
17 officers in the City?

18 A The General Orders are. We have General Orders. We have  
19 training manuals and you have to understand that when a  
20 new captain or a new commander comes into a precinct,  
21 they have directives as well and they tell you what their  
22 expectations are. I don't think that I have the right to  
23 comment on something like that because that's not part of  
24 my job responsibility.

25 Q Well, I'll ask you this. A lieutenant of SOU doesn't

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1 have the last word on what a police officer under his  
2 command should or should not be doing. Correct?

3 MR. SKLAR: I'll object to form and foundation.  
4 You can answer.

5 THE WITNESS: I don't believe so, no.

6 Q (By Mr. Smith) But because if the officer who he's  
7 giving the command to disagrees, he can go to, in this  
8 case, it would be the captain and seek guidance from the  
9 captain about what the lieutenant said if he thinks, if  
10 the officer thinks what the lieutenant said is incorrect.  
11 Isn't that correct?

12 A No. It's strange that you brought that up. The officers  
13 went to, from my understanding, went to the commander and  
14 told him that they no longer wanted to work for  
15 Lieutenant Adams because there were some things going on  
16 between him and Sergeant Brannock.

17 Q What commander are you speaking about, Mr. Ball?

18 A Commander Stewart, and as a result, Lieutenant Adams was  
19 removed and Sergeant Brannock remained at the SOU SOS,  
20 Special Operations Section. There was also an officer  
21 who spoke out against Lieutenant Adams and his practices.

22 Q Were you privy to that conversation or was this something  
23 you just heard kind of secondhand?

24 A It's not something that I heard secondhand. Lieutenant  
25 Adams is now working the shift.

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1 Q No. I'm talking about the reason why he's working the  
2 shift. Did you hear about the reason why? Did you hear  
3 that secondhand or someone directly told you that?

4 A I heard it secondhand.

5 Q Thank you, and so these issues with what you state is  
6 this unwritten order, was it limited to just Lieutenant  
7 Adams?

8 A When you say "limited to just Lieutenant Adams," do you  
9 mean that he's the only one who made that order?

10 Q Yes. Was it limited to Lieutenant Adams within SOU?

11 A I don't know. I know that Lieutenant Adams was the one  
12 who issued it. I can't tell you who, if anybody else,  
13 issued it or approved it. I can't tell you that. All I  
14 can speak of is to Lieutenant Adams' actions.

15 Q And to your knowledge, you didn't hear of this or to your  
16 knowledge, you don't know of this going on in any other  
17 precincts within the Detroit Police Department?

18 A I know that there have been investigations into the CCW  
19 arrests of multiple people. I know that I reviewed some  
20 arrest body cam shortly after the memo was sent out after  
21 I made my complaint regarding multiple arrests of people  
22 in cars and having individual probable cause, and I can  
23 remember reviewing some body cam footage where officers  
24 were still attempting to arrest multiple people in  
25 vehicles with guns.

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1                   In several occasions, I saw myself where two  
2           officers spoke up and said, "Didn't you just see the memo  
3           that came out? You can't do this anymore. I'm not  
4           taking part of it."

5       Q   Now, you said you knew that there was an investigation.  
6           Were you a part of that investigation?

7       A   What investigation, sir?

8       Q   You said you knew there was an investigation into the CCW  
9           violations. Were you contacted by Internal Affairs  
10          regarding any investigation?

11      A   Yeah. I talked to Internal Affairs. Yes, sir.

12      Q   Okay. Did you contact Internal Affairs initially?

13      A   No, I did not.

14      Q   Do you know who contacted Internal Affairs about these  
15          CCW violations you allege?

16      A   No, sir.

17      Q   Okay. But, again, --

18                   MR. SKLAR: Andrae, are you frozen? If he's  
19           not frozen, he's the greatest still actor in the history  
20           of the world. That's just incredible.

21                   COURT REPORTER: I think he's frozen.

22                   MR. SKLAR: Oh, I've been there, usually in the  
23           most unappealing ways. You know, the face is contorted.  
24           It's frightening. There we go.

25                   MR. SMITH: I guess it was my turn. Was it me



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1 or was it everybody here?

2 COURT REPORTER: Your last question we just  
3 have two words. You said, "But, again," and then you  
4 were gone.

5 MR. SMITH: Okay. I made my graceful exit.

6 Q (By Mr. Smith) Okay. I want to be clear, Mr. Ball. You  
7 don't have any personal knowledge of the Constitutional  
8 violations you allege occurred at No. 10 occurring in  
9 other precincts?

10 A Personal knowledge, no.

11 Q Okay. Thank you.

12 A If you want to talk about other detectives calling  
13 me --

14 Q You have to wait until a question is asked, Mr. Ball.

15 A This was still in regards to the question that you just  
16 asked me.

17 Q The question I asked was based on regarding what you have  
18 personal knowledge of. I think what you are prepared to  
19 offer is what you heard from other detectives and so with  
20 that, I'm going to move on to my next question,  
21 respectfully.

22 A Well, that's not exactly what I was going to say, but go  
23 right ahead.

24 Q Thank you so much. Let's go down to 46. I'll give you  
25 an opportunity to read 46, Mr. Ball.

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1 MR. SKLAR: I don't think it's on the screen.

2 MR. SMITH: Oh, yeah. It got kicked out. I'm  
3 sorry.

4 MR. SKLAR: Maybe it's just me.

5 MR. SMITH: When I got kicked out, I need to  
6 come back in and share.

7 Q (By Mr. Smith) Can you see that, Mr. Ball?

8 A Yes. If you could scroll up a little bit.

9 Q 45.

10 A 45?

11 Q Yes.

12 A Okay.

13 Q The question is do you have any personal knowledge of the  
14 training that Lieutenant McCord received?

15 A Personal knowledge other than the Academy?

16 Q Yes.

17 A And 24-hour training?

18 Q Yes.

19 A No.

20 Q Okay. Do you have any personal knowledge of any training  
21 that Captain Severy may have received from the  
22 Department?

23 A The same with him.

24 Q Okay. Do you have any personal knowledge of any training  
25 that Lieutenant Adams may have received from the

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1 Department?

2 A The same applies to him as well.

3 Q You were not assigned out. Correct?

4 A When, sir?

5 Q When you had the sit-down with Captain Severy and  
6 Lieutenant McCord. You were never assigned out. Is that  
7 correct?

8 A I was getting assigned out.

9 Q No. My question is you were not assigned out ultimately?

10 MR. SKLAR: Object to form and foundation.

11 THE WITNESS: At that time, I thought I was  
12 assigned out because I was going on the information that  
13 I received from them, so I was under the impression that  
14 I was assigned out. That's what I was told.

15 Q (By Mr. Smith) And is it fair that to your knowledge  
16 somebody stopped you from being assigned out?

17 A Somebody stopped me?

18 Q Yes.

19 A Somebody cancelled it. I don't know exactly who, but I  
20 know it was rescinded and if I'm not mistaken, either  
21 Lieutenant McCord or Captain Severy told me that I wasn't  
22 going anywhere. I can't remember which one.

23 Q And so after you found out that you were not going to be  
24 assigned out, did you ever report to another unit?

25 A No, sir.

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1 Q So you remained at 10th Precinct PDU?

2 A I remained at 10th Precinct PDU until July 28th when I  
3 retired.

4 Q So let's talk about that retirement.

5 MR. SMITH: I'm just going to pull up documents  
6 now if you'll bear with me. I'm going to stop sharing  
7 here so I can get the documents together.

8 Did we lose somebody? We lost Joel. Am I  
9 still here?

10 THE WITNESS: I see you.

11 COURT REPORTER: Yes, you're still there.

12 MR. SKLAR: I'm going to use my phone. This is  
13 just driving me nuts, so keep going and I'll just listen  
14 in and I can see you. I can see (sic) the question. I  
15 can't see much else, but this should make things a little  
16 bit quicker.

17 MR. SMITH: Okay. Brother Counsel, I'm going  
18 to present Exhibit 5 to Mr. Ball which is the Master  
19 Agreement between the City of Detroit and the Detroit  
20 Police Lieutenants' and Sergeants' Association. I'm  
21 going to put that on screen now.

22 MR. SKLAR: Okay.

23 (At 3:27 p.m., Defendants'  
24 Exhibits 5 and 6 marked)

25 MR. SMITH: We're back on the record, Ms.

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1 O'Connor?

2 COURT REPORTER: Yes, we are.

3 MR. SKLAR: Tamara, can I try to still click in  
4 otherwise or do I got to stay on the phone?

5 MR. SMITH: If I may, Joel, one thing I've had  
6 success with with these Zooms when you're having trouble,  
7 you can do the camera portion on your computer and the  
8 listening part with your phone.

9 MR. SKLAR: Okay. Keep going and I'm going to  
10 try to connect in also. Okay?

11 MR. SMITH: Okay.

12 Q (By Mr. Smith) And so Mr. Ball, I'm presenting to you the  
13 Master Agreement between the City of Detroit and the  
14 Detroit Police Lieutenants' and Sergeants' Association  
15 and this is from 2014 to 2019. I'm only using it for  
16 this point is that you've already commented that you were  
17 a member of LSA. Correct?

18 A Yes, sir.

19 Q And this is the Collective Bargaining Agreement that  
20 essentially governed your union's relationship with the  
21 City. Is that correct?

22 A Yes, sir.

23 MR. SMITH: Okay. I am going to take that one  
24 down and put up Exhibit 6 and Joel if you can hear me,  
25 Exhibit 6 is the Memorandum Of Understanding between the

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1 City of Detroit and the Detroit Police Lieutenants' and  
2 Sergeants' Association.

3 MR. SKLAR: I got it.

4 Q (By Mr. Smith) And I just want to read from the first  
5 subsection. It says:

6 "Extension of 2014-2020 Master Agreement."

7 MR. SMITH: I'm going to admit you here, Joel.

8 MR. SKLAR: Okay, thanks. I apologize. I'll  
9 stay on it until I'm on the other one, I guess.

10 MR. SMITH: Just turn the sound down on your  
11 computer and you can keep the sound on on your phone.

12 MR. SKLAR: Okay, that's great. Okay. Let me  
13 mute. Hold on. Is that better?

14 MR. SMITH: Yes, we're good.

15 Q (By Mr. Smith) And so Mr. Ball, I'm going to read the  
16 Extension of 2014-2020 Master Agreement. It says:

17 "The terms and conditions of the 2014-2020  
18 Master Agreement between the City of Detroit and  
19 DPLSA ("Master Agreement") shall be extended,  
20 subject to the amendments specified in this MOU,  
21 until June 30, 2022."

22 Now, I'm going to go down to subsection VI which talks  
23 about the DROP Plan?

24 A Yes, sir.

25 Q Okay. I'm going to read this really quickly.

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1                   "The City of Detroit shall use its best efforts  
2                   to obtain Bankruptcy Court approval to modify its  
3                   confirmed bankruptcy plan of adjustment to permit it  
4                   to amend Article 12 of the Combined Plan for the  
5                   Police and Fire Retirement System of the City of  
6                   Detroit, ("Combined PFRS Plan"), such that any  
7                   Member meeting certain qualifications may  
8                   participate in the DROP program for a maximum of ten  
9                   (10) years. Such amendments will not affect those  
10                  Members who are current," it should say currently,  
11                  "currently grandfathered into the unlimited DROP  
12                  program. To facilitate this change, the City of  
13                  Detroit shall seek approval to amend Section 12.1 of  
14                  the Combined PFRS Plan to add a new paragraph (3)  
15                  along the following lines."

16               And I won't read all that. I don't think that's really  
17               relevant for what we need.

18       A     Okay.

19       Q     But the point I wanted to take out of there is:

20                   "The City of Detroit shall use its best efforts  
21                   to obtain Bankruptcy Court approval to modify its  
22                   confirmed bankruptcy plan."

23       A     Yes, sir.

24       Q     So based on that language, it's fair to say that to  
25               adjust the pension under the Police and Fire Retirement

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1 System, we need to get approval from the Bankruptcy  
2 Court?

3 A That's my understanding.

4 Q Okay. So there can't be any changes made to your pension  
5 without approval from the Bankruptcy Court first?

6 A As regarding to the DROP.

7 Q Regarding to the DROP. Now, in the next line it says -  
8 and you were in the DROP Program. Correct?

9 A Yes, I was.

10 Q Okay. And so the next line says:

11 "Any Member meeting certain qualifications may  
12 particulate in the DROP Program for a maximum of ten  
13 (10) years."

14 So that line is clear that you can only participate in  
15 DROP for ten years. Is that pretty clear to you?

16 A Yes, sir.

17 Q Okay. I'm going to now present to you Exhibit 4,  
18 Defendants' Exhibit 4.

19 (At 3:37 p.m., Defendants'  
20 Exhibit 4 marked)

21 Q (By Mr. Smith) The document that I'm presenting to you,  
22 I'm purporting it to be the DROP Election Form that you  
23 initially signed when you signed up for the DROP Program.  
24 Now, there's some changes here. I've redacted out your  
25 personal information because I don't want your Social



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1 Number and Pension Number to get out.

2 A Okay.

3 Q Okay. So what do you understand the DROP Plan to be?

4 A The DROP Plan was a supplement to our pension and you  
5 could participate for up to ten years at the time. The  
6 City would get a certain percentage of it and at the end  
7 of the ten years, you would no longer be in the DROP  
8 Plan.

9 Q Okay. Did you also understand that at the end of that  
10 ten years, you essentially would leave, that you would  
11 have to exit the City? You would have to exit your  
12 employment?

13 A Yes.

14 Q Okay. And when do you recall signing up for the DROP  
15 Plan?

16 A On the 28th of July, 2011, I believe.

17 Q Okay. And so I'm going to present to you, I believe I'm  
18 sharing it. Did I stop sharing? No, it's there, and so  
19 I'm going to give you a chance - can you see that? Too  
20 small?

21 A I can see it, sir.

22 Q Okay. I'll give you a chance to review that. This  
23 should be a blast from the past for you.

24 A Yes.

25 Q Okay. Is this your signature on this document?

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1 A Yes, it is.

2 Q Okay. And who is this signed by? Who is this person  
3 that it's signed by?

4 A I believe she's from the Retirement Systems.

5 Q Okay. And this what's called a DROP Election Form, I see  
6 it's signed June 17th of 2011?

7 A Yes, sir.

8 Q Okay. And I want to direction your attention to Step 2 -  
9 DROP Election Date.

10 A Ah-huh.

11 Q Here I believe that's a 7?

12 A Yes, sir.

13 Q 28-2011. Who chose that date?

14 A That's my date of hire.

15 Q Say that - I'm sorry, I didn't catch that. Say that one  
16 more time, Mr. Ball?

17 A That's my hiring date. That's when I started.

18 Q With the City?

19 A Yes, sir. No, 2011? No. I'm looking for 1986.

20 Q That says July it looks like a 7. It says, "July 28,  
21 2011."

22 A Right.

23 Q And I'll ask the question again. My question is who  
24 selected that date?

25 A I think the Retirement System did, sir.

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1 Q Okay. Bear with me one second here. Bear with me, Mr.  
2 Ball.

3 A Okay.

4 Q So that date was selected and so I just want to read a  
5 little bit of this. In that first section where it says  
6 DROP Election Date, it says:

7 "I am eligible for 25-year service retirement."

8 A Yes.

9 Q So when you signed up for the DROP Program, you were  
10 eligible to retire at that time?

11 A Yes. That's what that means. That would be my 25th  
12 year.

13 Q Okay. And then I want to go to the Member  
14 Acknowledgement. It says:

15 "I irrevocably elect the above DROP election  
16 date for participation in the Deferred Retirement  
17 Option Plan (DROP) of the Police and Fire Retirement  
18 System of the City of Detroit. I have read and  
19 understand the "Guidelines for Making the DROP  
20 Decision." I have had an opportunity to consult  
21 with my own personal financial advisor. I  
22 understand that I cannot change my DROP election  
23 after this form is received by the System. I also  
24 understand and acknowledge that due to the time  
25 necessary to properly establish and record keep my

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1 DROP, there may be an administrative delay between  
2 my DROP election and when funds are first allocated  
3 to my DROP account. By signing below, I acknowledge  
4 that I have read and understand this statement."

5 So the question is from what I've just read and given  
6 your signature there, you understood that once you signed  
7 up for the DROP Program, there was no getting out?

8 A Getting out?

9 Q In the sense of that you couldn't revoke the decision to  
10 exit the DROP Plan. Once you signed up, you were in it  
11 at the time you executed that document?

12 A At the time I signed, yes.

13 Q Did I miss your answer, Mr. Ball? I hope I'm not frozen.

14 A At the time I signed this, that was my understanding.

15 Q Okay. And at the time you signed this document back in  
16 2011, was it ten years you could be in the DROP or was it  
17 a different number?

18 A I believe it was ten years.

19 Q Could it possibly have been five?

20 A No. I think mine was ten.

21 COURT REPORTER: We lost Mr. Sklar again.

22 MR. SKLAR: Hello.

23 Q (By Mr. Smith) And I'll keep going and so Mr. Ball, once  
24 you were in DROP, did you start to receive some kind of  
25 paymentwas a result of being in the DROP Plan?

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1 A You didn't get an actual payment. Mine was put into your  
2 DROP account and you weren't able to access it until you  
3 totally separated from the Department.

4 Q Okay. And so was it your understanding that at the end  
5 of that ten years that you would have to leave your  
6 employment with the City of Detroit?

7 A Had to at that time, but that's the language, yes.

8 Q Okay. So when did that ten years run? What was the date  
9 to your knowledge that that ten years was up?

10 A July 28, 2021.

11 Q Okay. So you've known for a number of years that you  
12 would have to leave your employment with the City by July  
13 28th, 2021. Is that fair to say?

14 A Yes.

15 Q So when you were having your issues with what you allege  
16 are these Constitutional violations, this was I want to  
17 say after I believe you said was May 2021. Correct?

18 A Yes, sir.

19 Q You knew you were going to be leaving the City in July of  
20 2021. Correct?

21 A That's not actually correct.

22 Q Okay. Why is that incorrect?

23 A Because they had started negotiating and there was talk  
24 of an extension and when I spoke to Mark Young from the  
25 LSA regarding this, he told me yes, there was a good

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1 possibility and his words to me was that "I was all  
2 right," and I said what do you mean "I'm all right?"

3 He said, "You're not going anywhere." So I  
4 said, "Okay." He sent the --

5 COURT REPORTER: Excuse me.

6 THE WITNESS: That I was not going anywhere and  
7 that I was safe. He told me that the Bankruptcy Judge  
8 had the petition on his desk and was going to sign and  
9 that I was safe. Ironically, after my retirement date,  
10 it was signed after I retired. I was, you know, due to  
11 the DROP Plan, I had to leave and I just found it ironic  
12 that after I left, then it was signed and all he had to  
13 do was call, write the letter to the Chief and appeal to  
14 him for five more years and I was never afforded that  
15 opportunity.

16 Q (By Mr. Smith) But we just and I'll go back here and can  
17 you see my screen?

18 A Yes, sir.

19 Q Just so I'm clear, the extension of the DROP Plan being  
20 on the Bankruptcy Judge's desk is not the same as him  
21 actually signing it and giving it force and effect.  
22 Would you agree with that?

23 MR. SKLAR: I'll object to form and foundation.

24 THE WITNESS: I don't know what the process is  
25 with him signing it, but if that is the process, then

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1 yes.

2 Q (By Mr. Smith) Okay. And clearly in here it says the  
3 City of Detroit and I'm reading from the subsection on  
4 DROP Plan.

5 "The City of Detroit shall use its best efforts  
6 to obtain Bankruptcy Court approval to modify its  
7 confirmed bankruptcy plan of adjustment to permit it  
8 to amend", essentially the retirement fund.

9 And so, again, in order for you to have made that cutoff,  
10 the Bankruptcy Court would had to have approved the  
11 extension prior to your DROP date. Is that correct?

12 MR. SKLAR: I'll object to form and foundation.  
13 Calls for a legal conclusion.

14 THE WITNESS: I can't be certain because like I  
15 said, they were in negotiations with getting it extended  
16 and I don't know the process. I don't know what was  
17 agreed. I just know that July 28th I was gone.

18 Q (By Mr. Smith) Just for the record, Mark Young, he's not  
19 the Bankruptcy Judge. Correct?

20 A Mark Young?

21 Q Yes.

22 A He works in negotiations with the Bankruptcy Judge, sir.

23 Q Okay. And the question I now have is you've heard of the  
24 Police and Fire Retirement System of the City of Detroit?

25 A Yes.

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1 Q Okay. That's who administers your retirement plan.

2 Correct?

3 A Yes.

4 Q Did you know that the Police and Fire Retirement System  
5 City of Detroit is not actually a city entity?

6 A No, I didn't know that.

7 Q Okay. Did you know that it is its own legal, separate  
8 entity?

9 A I knew that part, yes. I thought it was in conjunction  
10 with the City. I thought that they worked together.

11 MR. SKLAR: They do.

12 MR. SMITH: A brief pause, Brother Counsel. I  
13 want to confer with Counsel here real quickly, my Co-  
14 Counsel.

15 (At 3:48 p.m., recess taken)

16 MR. SMITH: Okay. Brother Counsel, are you  
17 there?

18 MR. SKLAR: I'm here.

19 (At 3:50 p.m., back on the record)

20 Q (By Mr. Smith) So I'm going to stop sharing screen so I  
21 can put the Complaint back up. So I'm going to share  
22 Exhibit 2 again.

23 Okay, Mr. Ball. I want to discuss what you  
24 assert your damages are. I just want to discuss with you  
25 what you assert your damages are, Mr. Ball. Can you see



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1           what's on my screen?

2       A    Yes, sir.

3       Q    Now, this is what you're requesting as far as relief,  
4           legal relief:

5                   a. a judgment for lost wages and benefits."

6           What wages did you lose as a result of the violation of  
7           the Constitutional - I guess, what wages did you lose as  
8           a result of the retaliation you say occurred?

9       A    As a result of the retaliation? I don't think that I  
10           actually lost any wages due to the retaliation other than  
11           the fact that I had stopped working overtime. My claim  
12           was that I lost wages and suffered other damages due to  
13           the fact that I believe that it was purposely set that  
14           after I retired, then they reinstated the DROP Program  
15           where you could request an extension.

16       Q    Okay. So I just want to make sure I'm clear. A part of  
17           your damages is your belief that you were forced to DROP  
18           and then they came and they got approval to do extensions  
19           on the DROP Program and you couldn't benefit from that.  
20           Is that fair?

21       A    Yes. After my conversations with Mark Young who told me  
22           that I was safe --

23       Q    And, again, Mark Young is - I'm sorry. I don't mean to  
24           step on you, Mr. Ball. Finish your comment.

25       A    No, go ahead.

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1 Q I'm sorry. Just when I share documents, it makes the  
2 screen small and there's a little bit of a delay, so when  
3 it seems like you're done talking and I start, then I see  
4 that you're still talking so I'm sorry for that.

5 So what benefits do you felt like you lost as a  
6 result of this litigation or the damages you claim you  
7 suffered?

8 A Like I told you before, I believe that the extension was  
9 approved after I got - I left. I found that to be ironic  
10 and I don't know exactly what day the extension was  
11 approved by the Bankruptcy Judge, but I just find it  
12 ironic and after I did leave, you know, I had to find  
13 insurance for myself which was in excess of \$1,000 a  
14 month

15 I lost income because I was no longer on the  
16 DROP Plan. You know, it was just, you know, I had to  
17 seek other employment. I had to relocate. There was a  
18 lot of things going on after this and I'm sure that my  
19 attorney can address a little bit more of this than I  
20 can, but I'm just going on what my belief is and, of  
21 course, that's something to be litigated between yourself  
22 and my attorney.

23 Q And question. What was your monthly pension payment once  
24 you essentially left the City and your DROP participation  
25 ended?

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1 A Approximately, \$4,000 dollars.  
2 Q Is that monthly? How is that --  
3 A Yes.  
4 Q Monthly  
5 A Yes, sir.  
6 Q Okay. And what was your monthly income as a sergeant?  
7 A As a sergeant, I was making over \$100,000 and some  
8 thousand dollars a year with overtime.  
9 Q Okay. Without overtime, what would your salary have  
10 been?  
11 A Probably it was \$69,000 dollars a year.  
12 Q And did you have any stocks, bonds, any things of that  
13 sort?  
14 A Yes, I do.  
15 Q What about an annuity?  
16 A Yes.  
17 Q And so what's the value of the annuity?  
18 A Post or pre-divorce?  
19 Q Post-divorce will be fine.  
20 A Post you said?  
21 Q Yes.  
22 A About \$169,000 dollars.  
23 Q Okay. And so how much do you get a month from that  
24 annuity?  
25 A I don't get anything from it. It's upon request.

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1 Q Upon request, and when were you divorced again?

2 A 2011.

3 Q And what is the value of the stocks? Again, let me  
4 preface it by saying I don't expect you to give it to me  
5 down to the dollar amount because you don't have a  
6 calculator. Give me an estimate what you believe the  
7 value of your stocks are?

8 A Right now?

9 Q Yes.

10 A Maybe \$160,000.

11 Q And do you receive any, do you typically cash any of  
12 those stocks in or you just kind of let the market do  
13 what the market does?

14 A I let the market do what it does. The only time I  
15 touched any of that is when my daughter was in school and  
16 I took money out for that. That was it.

17 Q And so earlier I do believe you said that with your new  
18 job you got medical benefits, so I'm trying to see what  
19 the gap was between you getting medical benefits with the  
20 new job versus when you left the DROP Plan, so that's  
21 kind of where I'm heading here. So when you leave the  
22 City, does the City give you medical benefits? Do you  
23 have access to medical benefits?

24 A No. You get like medical benefits for 30 days and, you  
25 know, I'm on certain medications and those medications

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1 are very expensive and I had to come out of my pocket  
2 substantially for those.

3 Q So how long were you without medical benefits before the  
4 medical benefits kicked in at your new job?

5 A I didn't start my new job until November.

6 Q So is it fair to say that entire period before November  
7 you didn't have medical benefits?

8 A No. I had generic insurance, the plans, and they just  
9 didn't do anything. It was horrible.

10 Q Is that something you pay out-of-pocket for?

11 A Yes, sir.

12 Q And what economic loss are you claiming that you suffered  
13 as a result of what you allege in this litigation?

14 A Economic loss? I had to uproot myself. I had to move.  
15 I had to come all the way across Michigan to Atlanta to  
16 seek out employment just so that I could have, you know,  
17 good medical.

18 Q Where did you live prior to leaving for Atlanta?

19 A In Southfield. Now, I'm paying for an apartment and I'm  
20 paying my house note.

21 Q So you still own the house in Southfield?

22 A Yes, sir.

23 Q It's a hot real estate market right now. Are you  
24 attempting to sell that home?

25 MR. SKLAR: I'll object to form and foundation.

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1 THE WITNESS: At the moment, no because it's a  
2 hot real estate market everywhere and the prices are  
3 going up as we speak. Georgia is fine.

4 Q (By Mr. Smith) And so is the only economic loss that you  
5 allege to have is in reference to you having to move to  
6 Atlanta in pursuit of the new job?

7 A Economic loss as far as insurance. Now, I'm paying for  
8 two homes instead of one. It's a lot but, you know, it  
9 is what it is at this point in time.

10 Q Okay. In some of your claims you allege and, for  
11 instance, I'll got to No. 54. You allege and here it  
12 talks about you:

13 "Suffered economic loss, lost wages, non-  
14 economic injuries, including but not limited to,  
15 mental anguish, physical and emotional distress,  
16 humiliation, mortification, outrage, embarrassment,  
17 anxiety, depression, degradation, fear, loss of  
18 enjoyments of life, loss of earnings, and other  
19 damages."

20 So in regards to the physical and the mental injuries you  
21 allege to have suffered, the non-economics, did you treat  
22 with any medical professionals regarding any injuries you  
23 allege you claim or you allege you suffered?

24 A I didn't have insurance.

25 Q So is that a no, you did not treat with any medical

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1 professionals regarding the injuries you allege to have  
2 sustained?

3 A No. I basically self-medicated. I had friends who were  
4 psychologists. I would speak to them. You know, I  
5 consulted with them, but with the situation as is.

6 Q What was the name of - you said you had a friend who was  
7 a psychologist. What was the name of the psychologist  
8 that you spoke to?

9 A I would rather not disclose her name. She doesn't even  
10 live here.

11 MR. SKLAR: That's okay. Marcellus, you should  
12 disclose the name.

13 THE WITNESS: Okay. Marsha.

14 Q (By Mr. Smith) And can you spell that for me, Mr. Ball?

15 A Yes. M-a-r-s-h-a.

16 Q Last name?

17 A Hold on one second. Rowe. R-o-w-e.

18 Q And is it Dr. Marsha Rowe?

19 A No.

20 Q Okay. And where is her practice located?

21 A She's in California.

22 Q What city?

23 A Where does she live or --

24 Q Yeah. Just the city. You can tell me --

25 A I don't know where her practice is. I just know she's in

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1 California.

2 Q Okay. What city in California? What city does she  
3 reside in?

4 A She lives in Fontana.

5 Q Fontana. And so when you treated with her, did you speak  
6 with her on the phone, Zoom with her? How did you  
7 communicate with her?

8 A When you say "treated," we spoke. We were friends and we  
9 were in a relationship and she would notice things about  
10 me and she would talk with to them about me as far as  
11 being depressed and so forth.

12 Q So let me understand this right. Ms. Rowe was your  
13 girlfriend?

14 A At the time we were in a dating relationship.

15 Q Okay. Is there anyone else that you treated with?

16 A No.

17 Q Now, earlier you talked about medication being expensive.

18 A Yes.

19 Q What were those medications?

20 A Anti-rejection medicine.

21 Q Do you happen to know the name of that medication, either  
22 the common name, generic version?

23 A Mycophenolic. Let me go get the bottle. I can give you  
24 the exact name. One second. It's right here. Okay.  
25 It's spelled M-y-c-o-p-h-e-n-o-l-i-c and it has acid.



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1 Q And Mr. Ball, I'm going to ask this question very  
2 carefully because --

3 MR. SMITH: Brother Counsel, I'll send a  
4 request, I'll send a HIPAA over.

5 Q (By Mr. Smith) Was this medication used to treat you and  
6 you don't have to disclose now the illness which this  
7 medication treats, but was this medication to treat an  
8 illness that occurred before you retired or you separated  
9 from the City or after you separated from the City?

10 A Both. It happened before I retired and I can tell you.  
11 I have no problem telling you. I had a kidney  
12 transplant.

13 Q When did you have the kidney transplant?

14 A I had two. The last one was in 2010.

15 Q And so is it fair to say you take several different  
16 medications in relationship to that kidney surgeries?

17 A Yes, sir.

18 Q Are there any other medications that you were taking not  
19 related to the kidney surgery?

20 A No. I take blood pressure medicine, but that's, you  
21 know, in conjunction with the kidney because you have to  
22 regulate your blood pressure, so.

23 Q Did you have an expectation that you would receive  
24 medical benefits from the City once you dropped?

25 A All of us did. That's what we signed up for. Everybody

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1           who signed up for the job had the expectation of medical  
2           benefits after they retired.

3       Q    But was that expectation not adjusted by the Bankruptcy  
4           Court doing the bankruptcy?

5       A    Yes, sir.

6                       MR. SMITH:  Joel, give me a couple minutes with  
7           my Co-Counsel and I'm gonna see if there's a few more  
8           additional questions I need to answer here.

9                       (At 4:09 p.m., recess taken)

10                      (At 4:11 p.m., back on the record)

11                     MR. SMITH:  Okay.  I'm back on here.  Okay.

12       Q    (By Mr. Smith)  Mr. Ball, I just want to be clear.  So  
13           after the City left bankruptcy, did that change the fact  
14           that you were going to be entitled to the same benefit  
15           that you signed up for?  Is that fair to say?

16       A    Yes.

17       Q    Okay.  And so after - I know you might have come in the  
18           door expecting that you would have benefits after you  
19           retired, but once the Bankruptcy Court got involved, you  
20           didn't have that same expectation after bankruptcy, did  
21           you?

22       A    I had the expectation.  I was hopeful that they would  
23           work things out and from what I understand, they're still  
24           trying to work things out, so I still have - I'm hopeful  
25           right now.  I don't really have that much of an

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1           expectation right now because my expectation is not  
2           helping me with my medical costs.

3       Q   Are you aware of any of your colleagues who may have  
4           retired, you know, recently that received benefits,  
5           medical benefits when they retired?

6       A   No. I don't really associate with anybody who is  
7           retired.

8                       MR. SMITH: Okay. I have no further questions  
9           at this time, Mr. Ball.

10                   MR. SKLAR: Mr. Ball, I got a few to follow-up.  
11           Could we keep the Complaint up and go to Paragraph 17,  
12           please?

13                   MR. SMITH: Sure.

14                               EXAMINATION

15       BY MR. SKLAR:

16       Q   Marcellus, can you take a look at Paragraph 17 and I'll  
17           let you read it for a sec.

18       A   Okay.

19       Q   And I don't believe you were asked about this paragraph  
20           during your deposition. You allege that there was an  
21           unwritten "Order" and practice to arrest all occupants of  
22           a vehicle when a gun was found. Correct?

23       A   Yes.

24       Q   And did you believe that that unwritten order and/or  
25           practice was a violation of the Constitution?

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1 A I believed, yes. I believed that it violated people's  
2 rights because there was no individual probable cause.

3 Q Now, in your job you look at individual cases on a case-  
4 by-case basis. Correct?

5 A Yes, sir.

6 Q Is it part of your ordinary job duty to critique or  
7 criticize orders, written or otherwise?

8 A No.

9 Q Is it your job within your ordinary job duties to  
10 determine whether or not a order, written or unwritten,  
11 is constitutional or unconstitutional?

12 A No.

13 Q Is it fair to say that your speech and complaints in this  
14 case were extraordinary for you?

15 A Yes.

16 Q Okay. Excellent. Do you have a child?

17 A A child?

18 Q A son.

19 A I have a daughter.

20 Q A daughter. Forgive me.

21 A Yeah.

22 Q Did you have any concern that your daughter may be  
23 impacted by this unconstitutional order, policy, or  
24 practice that you allege in Paragraph 17?

25 A Very concerned because it was getting a lot of positive

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1 and negative criticism and, you know, my daughter, you  
2 know, she was worried about it. My daughter has epilepsy  
3 and one of the ways that her epilepsy can be brought on  
4 is through stress and I was doing everything in my power  
5 to alleviate that stress from her because I didn't want  
6 her to be worried and he was.

7 She still is. She still asks questions and I  
8 think she finds a little relief now knowing that I am now  
9 in Georgia now and away from Detroit.

10 Q Okay. Good. And when you made your complaints and  
11 reports of what you thought was unconstitutional policy,  
12 practice or order, when you went to the Wayne County  
13 Prosecutor, was that outside your chain of command?

14 A Yes.

15 Q Okay. And when you spoke out, did you speak out as a  
16 citizen on a matter of public concern as far as you knew  
17 or as an employee of the City of Detroit?

18 A As far as I knew, I was speaking out as, you know, a  
19 citizen.

20 Q Okay. Good.

21 MR. SKLAR: I have nothing else.

22 MR. SMITH: Okay. I do have some additional  
23 questions.

24 RE-EXAMINATION

25 BY MR. SMITH:

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1 Q Mr. Ball, how old is your daughter?

2 A Twenty-four.

3 MR. SMITH: I have no further questions. Thank  
4 you for your time, Mr. Ball.

5 (At 4:16 p.m., deposition concluded)

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C E R T I F I C A T I O N

STATE OF MICHIGAN)

(COUNTY OF OAKLAND)

I certify that this transcript, consisting of 190 pages, is a complete, true and correct record of the deposition testimony of MARCELLUS BALL taken in this case by Zoom video conferencing on Wednesday, February 23, 2022. The term "inaudible" is used where audio fades out or audio interference causes testimony to be unintelligible.

I further certify that prior to taking this deposition, MARCELLUS BALL was duly sworn to tell the truth, the whole truth and nothing but the truth.

2-23-22

*Tamara A. O'Connor*

Date

TAMARA A. O'CONNOR, CSMR-2656, CER-2656

Notary Public

My Commission Expires: 6-25-27

to\*

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